



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 17]

नई दिल्ली, शनिवार, अप्रैल 27, 1996/वैशाख 7, 1918

No. 17]

NEW DELHI, SATURDAY, APRIL 27, 1996/VAISAKHA 7, 1918

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministry of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

(पुनर्वास प्रभाग)

(Rehabilitation Division)

New Delhi, the 29th March, 1996

नई दिल्ली, 29 मार्च, 1996

का. आ. 1260, विश्वस्थापित व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1954 (1954 का 44) की उपधारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करने हेतु केंद्रीय सरकार एतद्वारा गृह मंत्रालय, पुनर्वास प्रभाग में संयुक्त सचिव श्री आर. एस. सेठी को उक्त अधिनियम के द्वारा अथवा उनके अधीन मुख्य बंधोबस्त आयुक्त को सौंपे गए कार्यों का निष्पादन करने के उद्देश्य से मुख्य बंधोबस्त आयुक्त के रूप में नियुक्त करती है।

2 इसमें द्वारा दिनांक 07-08-1995 की अधिसूचना सं. 1(1)/94-बंधोबस्त (क) का अधिकरण किया जाता है।

[संख्या 1(1)/94 - बंधोबस्त (क)]

पी. के. शर्मा, निदेशक

S.O. 1260.—In exercise of the power conferred by Sub-Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Shri R. S. Sethi, Joint Secretary in the Ministry of Home Affairs Rehabilitation Division as Chief Settlement Commissioner for the purpose of performing the functions assigned to such Chief Settlement Commissioner by or under the said Act.

2. This supersedes notification No. 1(1)/94-settlement (A) dated the 7th August, 1995.

[No. 1(1)/94-Settlement(A)]

P. K. SHARMA, Director

नई दिल्ली, 29 मार्च, 1996

नई दिल्ली, 1 अप्रैल, 1996

का. आ. 1261.— निष्का संपत्ति प्रबंध अधिनियम, 1950 (1950 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा गृह मंत्रालय पुनर्वास प्रभाग में संयुक्त सचिव, श्री आर. एम. सेठी को उक्त अधिनियम के द्वारा अथवा उसके अन्तर्गत निष्का संपत्तियों के महाभिरक्षक को सौंपे गए कार्यों का निष्पादन करने के उद्देश्य से महाभिरक्षक नियुक्त करती है।

2. इस अधिसूचना द्वारा दिनांक 07-08-93 की अधिसूचना सं. 1(1)/94 - बंदोबस्त (क) का अधिक्रमण किया जाता है।

[संख्या 1(1)/94 - बंदोबस्त (ख)]

पी. के. शर्मा, निदेशक

New Delhi, the 29th March, 1996

S.O. 1261.—In exercise of the power conferred by Section 5 of the Administration of Evacuee Property Act, 1950 (31 of 1950), the Central Government hereby appoints Shri R. S. Sethi, Joint Secretary in the Ministry of Home Affairs, Rehabilitation Division as the Custodian General of Evacuee Property for the purpose of performing functions assigned to such Custodian General by or under the said Act.

2. This supersedes notification No. 1(1)/94-Settlement (A) dated 7th August, 1995.

[No. 1(1)/94-Settlement(B)]

P. K. SHARMA, Director

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली 4 अप्रैल, 1996

का. आ. 1262.—राजभाषा नियम (संघ के शासकीय प्रयोजनों के लिए प्रयोग) 1976 के नियम 10 के उप नियम (4) के अनुसरण में केन्द्रीय सरकार इस मंत्रालय के प्रशासनिक नियंत्रण के अधीन केन्द्रीय मंत्रकता आयोग, नई दिल्ली, जिसके 80 प्रतिशत कर्मचारी हिन्दी के हिन्दी वा कार्यमाध्यक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[संख्या 11011/3/93-हिन्दी - II]

ए. के. भट्टराई, उप सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel & Training)

New Delhi, the 4th April, 1996

S.O. 1262.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules 1976, the Central Government hereby notifies the Central Vigilance Commission, New Delhi, under the administrative control of this Ministry, as an office where more than 80 percent Staff have acquired working knowledge of Hindi.

[F. No. 11011/3/93-Hindi-II]

A. K. BHATTARAI, Dy. Secy.

का. आ. 1263.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित किए जाने वाले अपराधों के रूप में विनिर्दिष्ट करती है, यथा :—

(क) प्रतिस्पर्धाधिकार अधिनियम, 1957 (1957 का अधिनियम सं. 14) की धारा 63, 63-क, 63-ख, 65, 67, 68 और 68-क एवं 69 के अन्तर्गत दंडनीय अपराध,

(ख) उक्त वर्णित अपराधों में से किसी एक अथवा अधिक में सम्बंधित या संसक्त प्रयत्नों, बुद्धिपूर्ण तथा पद्धतियों और वैसे ही संव्यवहार के अनुक्रम में किया गया कोई अन्य अपराध अथवा किए गए अन्य अपराध।

[संख्या 228/22/96 - ए. पी. डी. - II]

एम. गौतम राजन, अवर सचिव

New Delhi, the 4th April, 1996

S.O. 1263.—In exercise of the powers conferred by section 3 of Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby Specifies the following offences as the offence which are to be investigated by Delhi Special Police Establishment, namely.

(a) Offences punishable under Section 63, 63-A, 63-B, 65, 67, 68, 68-A and 69 of Copy-rights Act, 1957 (Act No. 14 of 1957).

(b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of same transaction arising out of the same facts.

[No. 228/22/96-AVD. II]

S. SOUNDAR RAJAN, Under Secy.

नई दिल्ली, 9 अप्रैल, 1996

का. आ. 1264.—दण्ड प्रक्रिया संहिता, 1973 (1973 का अधिनियम सं. 2) की धारा 24(8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री पी. बी. रामाकृष्णा, अधिवक्ता हैदराबाद को, दिल्ली विशेष पुलिस स्थापना के अवरधिक सामान्य सं. आर. सी. 1 (ए)/95-ए. पी. डी. (6) के मामले में, दिल्ली/नई दिल्ली के विचारण न्यायालयों और अपील पुनरीक्षण अथवा हम बाद में उभरान पुनरीक्षण या अपील के मामले में त्रिथि द्वारा संस्थापित न्यायालयों में पेशी करने के लिए विशेष नोट अधिव्यंजक नियुक्त करती है।

[संख्या - 225/10/96 - ए. पी. डी. - II]

एम. मोदर राजन, अवर सचिव

New Delhi, the 9th April, 1996

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 4 अप्रैल, 1996

S.O. 1264.—In exercise of the powers conferred by Section 24(8) of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri P. V. Ramakrishna, Advocate, Hyderabad as Special Public Prosecutor for conducting Criminal Case RC. 1(A)/95-ACU(VI) of Delhi Special Police Establishment in Trial Courts at Delhi/New Delhi, and Appeals Revisions or other matters arising out of this case in Revisional or Appellate Court established under Law.

[No. 225/10/96-AVD. II]

S. SUNDAR RAJAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 9 अप्रैल, 1996

का.आ. 1265.—सर्वसाधारण की सूचना के लिए यह अधि-
सूचित किया जाता है कि केन्द्र सरकार द्वारा मेरस साया हाउसिंग
फाइनेंस क. लि., सहजानन्द शाहिब रोड, शाहिबंग रोड,
अहमदाबाद-380004 का आयकर अधिनियम, 1961 की धारा
36 (1) (viii) के प्रयोजनार्थ कर निर्धारण वर्ष 1996-97 से 1998-99
तक के लिए हाउसिंग फाइनेंस कम्पनी के रूप में अनुमोदित किया
गया है।

2. यह अनुमोदन इस शर्त पर किया जाता है कि कम्पनी
आयकर अधिनियम, 1961 की धारा 36 (1) (viii) के उपबंधों के
अनुसरण करेगी और उनका अनुपालन करेगी।

[अधिसूचना सं. 10064/फा.सं. 204/17/95—आयकर वि-11]

निर्देशक, उप सचिव

MINISTRY OF FINANCE

(Department of Revenue)

Central Board of Direct Taxes

New Delhi, the 9th April, 1996

S.O. 1265.—It is notified for general information that M/s.
Saya Housing Finance Co. Ltd., Sahajanand Shopping Centre,
Shahibang Road, Ahmedabad-380004 have been approved by
the Central Government as a Housing Finance Company for
the purpose of Section 36(1)(viii) of the Income-tax Act,
1961, for the assessment years 1996-97 to 1998-99

2. The approval is subject to the condition that the
company will conform to and comply with the provisions of
section 36(1)(viii) of the Income-tax Act, 1961.

[Notification No. 10064/F. No. 204/17/95/ITA.II]

NISHI SINGH, Dy. Secy.

का.आ. 1266.—राष्ट्रीयकृत बैंक (प्रबंध और (प्रकीर्ण उपबंध) स्कीम,
1970 के खण्ड 3 के उपखण्ड (1) खण्ड 5, खण्ड 6, खण्ड 7
और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कम्पनी
(उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970
की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रवृत्त शक्तियों
के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श
करने के पश्चात् एतद्वारा श्री बिस्वजीत चौधरी, वर्तमान कार्यपालक
निदेशक यूको बैंक को उनके कार्यभार ग्रहण करने की तारीख से
पांच वर्ष की अवधि के लिए यूनाइटेड बैंक आफ इंडिया के अध्यक्ष
एवं प्रबंध निदेशक के रूप में नियुक्ति करती है।

[फा.सं. 9/32/95—बी.ओ. I]

के.के. मंगल, अध्वर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 4th April, 1996

S.O. 1266.—In pursuance of the powers conferred by clause
(a) of sub-section 3 of section 9 of the Banking Companies
(Acquisition and Transfer of Undertakings) Act, 1970, read
with sub-clause (1) of clause 3, clause 5, clause 6, clause 7
and sub-clause (1) of clause 8 of the Nationalised Banks
(Management and Miscellaneous Provisions) Scheme, 1970,
the Central Government, after consultation with the Reserve
Bank of India, hereby appoints Shri Biswajit Choudhuri, pre-
sently executive Director, UCO Bank, as Chairman and
Managing Director, United Bank of India, for a period
of five years from the date of his taking charge.

[F. No. 9/32/95-B.O.I]

K. K. MANGAL, Under Secy.

नई दिल्ली, 8 अप्रैल, 1996

का.आ. 1267.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध)
स्कीम, 1970 के खण्ड 3, खण्ड 8 के उपखण्ड (1) के साथ
पठित बैंककारी कम्पनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम,
1970 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त
शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व
बैंक से परामर्श करने के पश्चात्, एतद्वारा, श्री एम.
एम. वैश, वर्तमान में मुख्य महाप्रबंधक स्टेट बैंक आफ
हैदराबाद को, उनके कार्यभार ग्रहण करने की तारीख से पांच
वर्ष तक की अवधि के लिए यूको बैंक के पूर्णकालिक निदेशक
(कार्यपालक निदेशक के रूप में पदनामित) के पद पर नियुक्ति
करती है।

[फा.सं. 9/26/95—बी.ओ. I]

मुन्शिर भास्कर, निदेशक

New Delhi, the 8th April, 1996

S.O. 1267.—In exercise of the powers conferred by clause
(a) of sub-section 3 of section 9 of the Banking Companies
(Acquisition and Transfer of Undertakings) Act, 1970, read
with clause 3, sub-clause (1) of clause 8 of the Nationalised
Banks (Management and Miscellaneous Provisions) Scheme,
1970, the Central Government, after consultation with the
Reserve Bank of India, hereby appoints Shri M.M. Vaish,

presently Chief General Manager, State Bank of Hyderabad, as a whole-time director (designated as the Executive Director) of UCO Bank for a period of five years from the date of his taking charge.

[No. 9/26/95-BO.I]

SUDHIR BHARGAVA, Director

नई दिल्ली, 8 अप्रैल, 1996

का. आ. 1268.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा 2 के प्रावधान यूनाइटेड बैंक आफ इंडिया, कलकत्ता पर 15 मार्च, 1999 की अवधि तक उस सीमा तक लागू नहीं होंगे जहाँ तक कि उनका संबंधी गिरवीदार के रूप में मैसर्स स्टर्लिंग फार्मास्यूटिकल्स प्रोडक्ट्स कंपनी (पी) लिमिटेड की 30 प्रतिशत से अधिक की प्रवृत्त शेयर पूंजी की उसकी धारिता से है।

[संख्या 15/10/96 बी.ओ.]

श्रीमती पी. मोहन, निदेशक

New Delhi, the 8th April, 1996

S.O. 1268.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India hereby declares that the provisions of sub-section 2 of Section 19 of the said Act shall not apply to United Bank of India, Calcutta for a period upto 15th March, 1999 in so far as they relate to its holding of the shares of M/s. Sterling Pharmaceuticals Products Co. (P) Ltd. in excess of 30 per cent of the paid-up share capital of the company as pledgee.

[No. 15/10/96-BOA]

Mrs. P. MOHAN, Director

नई दिल्ली, 9 अप्रैल, 1996

का. आ. 1269.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) (ग) (ख) के उपबंध क्रमशः बैंक आफ बड़ोदा, इंडियन बैंक और यूनियन बैंक आफ इंडिया के अध्यक्ष एवं प्रबंध निदेशक श्री के. कसन, श्री एम. राजगोपाल और श्री ए. टी. पन्निर सेल्वम पर, जहाँ तक आई. बी. यू. इंटरनेशनल फार्मेशन लि. के बोर्डों में निदेशक के रूप में उनकी नियुक्ति का संबंध है, लागू नहीं होंगे।

[सं. एक 20/3/94-बी ओ. I]

के. के. मंगल, अवसर सचिव

New Delhi, the 9th April, 1996

S.O. 1269.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Government of India, on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-section (1)(c)(i) of Section 10 of the said Act shall not

apply to Shri K. Kannan, Shri S. Rajagopal and Shri A.T. Pannir Selvam, Chairman and Managing Director of Bank of Baroda, Indian Bank and Union Bank of India, respectively, in so far it relates to their appointment as directors on the Board of IBU International Finance Ltd.

[No. 20/3/94-BO.I]

K. K. MANGAL, Under Secy.

नई दिल्ली, 9 अप्रैल, 1996

का. आ. 1270.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 9 के उपबंध कर्नाटक बैंक लि. पर कर्नाटक के जिला, हसन तालुक अर्कलगुड ग्राम मल्लीपटना में हमके द्वारा प्रारित भवन मम्पति के संबंध में 30 अगस्त, 1997 तक की अवधि के लिए लागू नहीं होंगे।

[सं. 15/7/96 बी ओ. ए.]

श्रीमती पी. मोहन, निदेशक

New Delhi, the 9th April, 1996

S.O. 1270.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply to Karnataka Bank Ltd., in respect of its holding building property at Mallipatna Village, Arkalgud Taluk, Hassan District, Karnataka, for a period upto 30th August, 1997.

[No. 15/7/96-BOA]

Mrs. P. MOHAN, Director

नई दिल्ली, 9 अप्रैल, 1996

का.आ. 1271.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 9 के उपबंध कैथोलिक मरियन बैंक लि त्रिपुर पर हमके द्वारा केरल राज्य के कोट्टायम जिले के अरपुका ग्राम कैपजा में भवन सहित 15 सेंद्रम भूमि वाला गैर-बैंककारी परि-सम्पत्तियों की धारिता के संबंध में 17 नवंबर, 1996 तक की अवधि के लिए लागू नहीं होंगे।

[संख्या 15/3/96-बी. ओ. ए.]

श्रीमती पी. मोहन, निदेशक

New Delhi, the 9th April, 1996

S.O. 1271.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India hereby declares that the provisions of Section 9 of the said Act shall not apply to Catholic Syrian Bank

Ltd., Trichur for a period upto 17th November, 1996 in respect of its holding non-banking assets consisting of 15 cents of lands with building in Arpukara Desom, Kalpuzha Village of Kottayam District, Kerala.

[No 15/3/95—BOA]

Mrs. P. MOHAN, Director

(आयकर अधिस्त का कार्यालय)

अधिसूचना सं. 7/95 - 96

कलकत्ता, 22 फरवरी, 1996

का. आ. 1272. आयकर अधिनियम, 1961 की धारा 120 की उप-धारा (1), (2) एवं (5) द्वारा प्रदत्त शक्तियों तथा इस दिशा में मुझे सक्षम बनाने वाली सभी शक्तियों का प्रयोग करने हुए, तथा इस संबंध में सभी विद्यमान आदेशों का अधिस्तमण करने हुए, मैं आयकर आयुक्त पश्चिम बंगाल - 11, कलकत्ता एतद्वारा निदेश देता हूँ कि सभी क्षेत्रों अथवा व्यक्तियों का आय वर्ग अथवा कार्यों के वर्गों अथवा मामलों अथवा मामलों के वर्गों जिनके ऊपर आ. अ. बार्ड - 2 वर्धमान प्रयोग करेंगे अथवा क्षेत्राधिकार का प्रयोग करेंगे, में संबंधित निम्नलिखित अनुसूची में विनिर्दिष्ट निर्धारण अधिकारियों शक्तियों का प्रयोग करेंगे तथा साथ-साथ कार्यों को संभालेंगे।

अनुसूची - 1

(1) आयकर अधिकारी
बार्ड - 1, वर्धमान

(2) आयकर अधिकारी
बार्ड - 2, वर्धमान

अधिसूचना 22-2-96 से लागू होगा।

[नं. मुद्रा - 11/अन्ना. (पुनर्गठन)/95-96/5979-6079]

पी. आर. रे., आयकर आयुक्त

(Office of the Commissioner of Income-tax)

NOTIFICATION NO. 07/95-96

Calcutta, the 22nd February, 1996

S.O. 1272.—In exercise of the powers conferred on me under Sub-Section (1), (2) & (5) of Section 120 of the I.T. Act, '61 and all other powers enabling me in this behalf and in supersession of all the existing orders in this regard, I, The Commissioner of Income-tax, West Bengal—XI, Calcutta—hereby —

direct that the Assessing Officers specified in the schedule below shall exercise the powers and perform the functions concurrently, in respect of all areas or persons or classes of persons of income or classes of incomes or cases or classes of cases over which the I.T.O. Ward-2, Burdwan, exercise or will exercise jurisdiction.

SCHEDULE—I

(i) The Income-tax Officer,
Ward—1, Burdwan

(ii) The Income-tax Officer,
Ward—2, Burdwan.

The Notification shall take effect from 22-2-96.

[No. HQ-XI/Jur. (Re-Org.)/95-96/5979-6079]

P. R. RAY, Commissioner of Income-tax

उद्योग मंत्रालय

(औद्योगिक नीति और संवर्धन विभाग)

नई दिल्ली, 26 मार्च, 1996

का.आ. 1273.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप नियम (4) के अनुसरण में, निम्नलिखित कार्यालयों को, जिनके 80% कर्मचारी बन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।—

1. बाल सहयोग विस्तार केन्द्र, नई दिल्ली
2. क्षेत्रीय परीक्षण केन्द्र, मद्रास।
3. शाखा लघु उद्योग सेवा संस्थान, तेजपुर (असम)
4. लघु उद्योग सेवा संस्थान, गुवाहटी।

[सं. ई. 12012/2/91-हिंदी]

श्रीमती प्रतिभा करन, सहायक सचिव

MINISTRY OF INDUSTRY

(Department of Industrial Policy and Promotion)

New Delhi, the 26th March, 1996

S.O. 1213.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices whose 80 per cent staff have acquired the working knowledge of Hindi :—

1. Bal Sahyog Extension Centre, New Delhi.
2. Regional Testing Centre, Madras.
3. Branch Small Industries Service Institute, Tezpur (Assam).
4. Small Industries Service Institute, Guwahati.

[No. E-12012/2/91-Hindi]

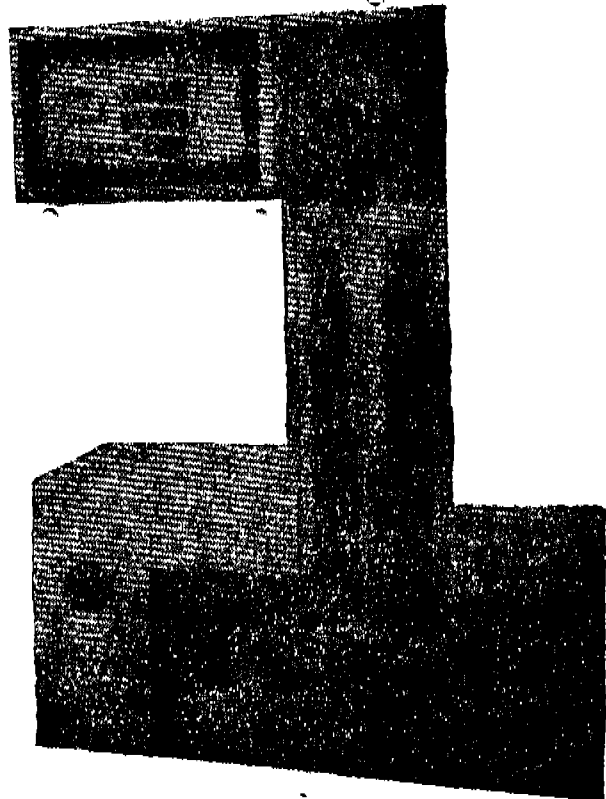
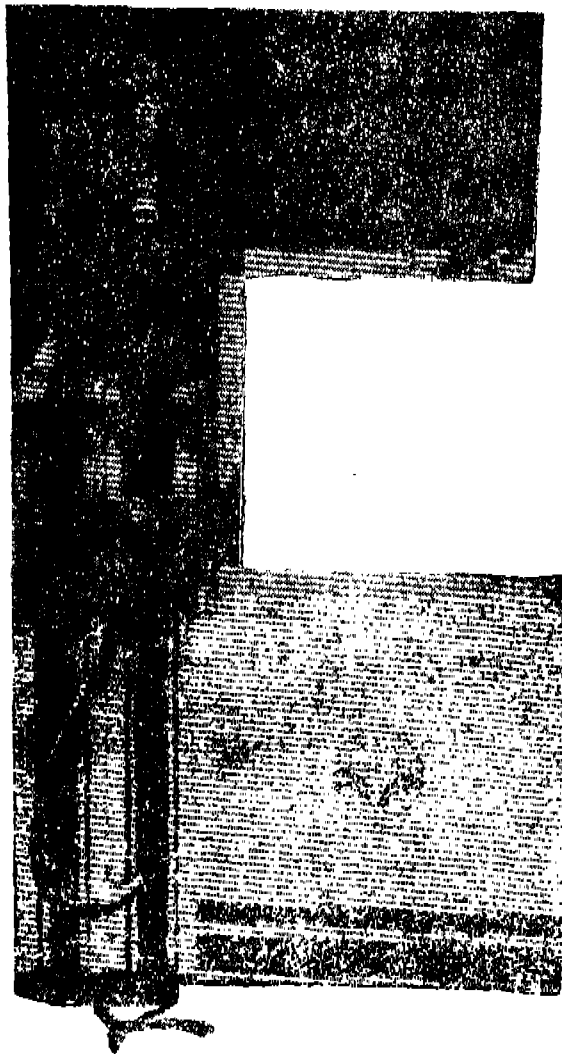
Smt. PRATIBHA KARAN, Jt. Secy.

नागरिक पुति, उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय

नई दिल्ली, 9 अप्रैल, 1996

का.आ. 274.—केन्द्रीय सरकार की विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल बाट और माप मानक अधिनियम 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और हम बात की संभावना है कि उक्त माडल लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देना रहेगा।

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 36 उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एस. एम. 100 सीरीज के बहुउद्देश्यीय वितरण पंप के माडल का (जिसे हमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स स्कलुम्बरजर स्वेडिश टैंक मिरटम, जी.एम.बी.एच., लोहेर स्ट्रैस 1,5830 एन्वैड्स जर्मनी द्वारा और भारत में विपणन मैसर्स मरकटाइज गैज इन्स्ट्रियल डवलपमेंट कंपनी (भिवर), प्लॉट नं. 39/44, स्क्रीम 6, रोड 2, मिन्नोत (ई), मुम्बई-400022 द्वारा किया गया है और जिस अनुमोदन पत्र आई. एन. डी/13/95/45 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



माडल (आकृति देखिए) पेट्रोल और डीजल ईंधन के वितरण के लिए एक बहुउत्पाद वितरण पंप है। मशीन के तकनीकी व्योरे निम्न प्रकार है।

| | |
|-----------------------|--|
| विनिर्माता | मैसर्स स्कलुम्बरजर स्वेडिश टैंक सिस्टम जी. एम. बी. एच., लोहेर स्ट्रैस। 5830 स्वेडिश जर्मनी |
| मशीन का नाम | बहु उत्पाद वितरण पंप |
| टाइप | एम. एम. 100 |
| न्यूनतम प्रवाह दर | 2 लीटर/मिनट |
| अधिकतम प्रवाह दर | 80 लीटर/मिनट |
| अधिकतम आय | 4 बाग (गेज) |
| तरल पदार्थ की प्रकृति | गैसोलिन और डीजल |
| संप्रदर्श एकक | अंकीय संप्रदर्श कला सामान्य कोका सगणक |

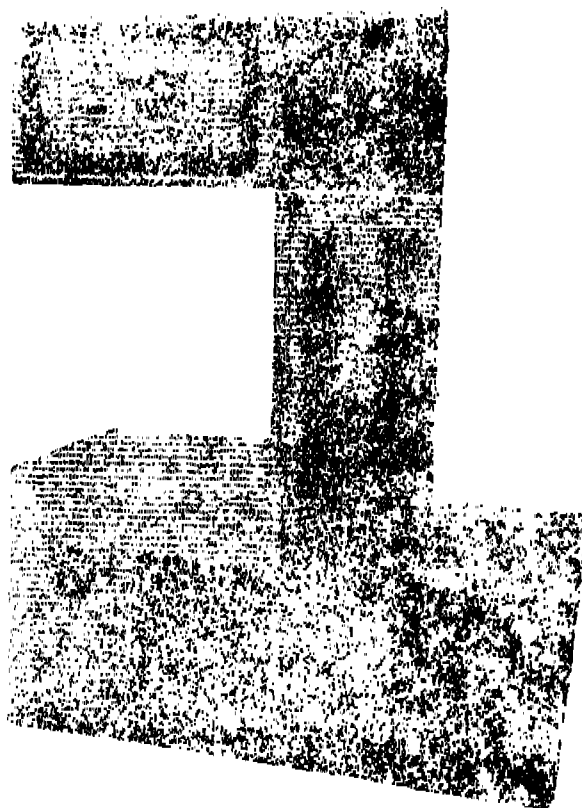
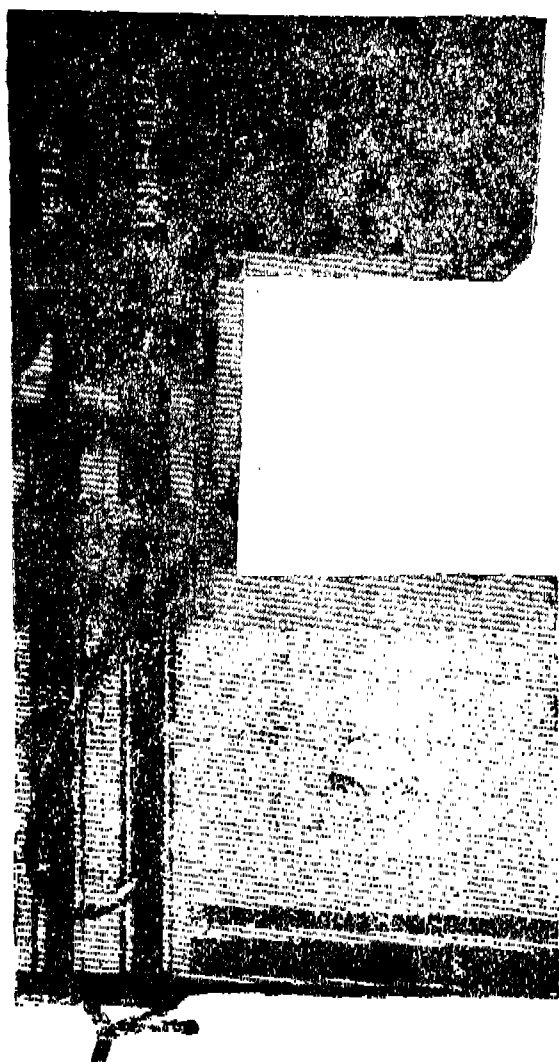
| | |
|------------------|---|
| अधिकतम माप | ± 50° सी |
| न्यूनतम माप | ± 10° सी |
| मापन सिद्धान्त | वोल्यूमेट्रिक (2—पिस्टन, दो गुना कारगर करण पी. डी. सी टरस) |
| प्रवर्तन क्षेत्र | मोटर वाहनों के लिए ईंधन वितरण एल. पी. जी. से भित्र। |
| नवीय आयतन | 0.51 |
| परमर | इंस्टीमेटिक-विनिर्माता |
| प्रमाण | 01-04-2029 |
| | 220 लीटर/मिनट 50 लीटर/मिनट पावर |
| | [फा. गं. डब्ल्यू.एम 21(46)/95] |
| | राज्यीय शीघ्राविव, संयुक्त सचिव |

MINISTRY OF CIVIL SUPPLIES, CONSUMER
AFFAIRS AND PUBLIC DISTRIBUTION

New, Delhi, the 9th April, 1996

S.O. 1274.—Whereas the Central Government after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see figure) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of Multi Purpose Dispensing Pumps of SM 100 series (hereinafter referred to as the Model) manufactured by M/s Schlumberger Schweim Tanksysteme GmbH, Lohrerstrasse 1, 5830 Schweim Germany and marketed in India by M/s. Mercantile and Industrial Development Company, (Midco), Plot No 39/44, Scheme 6, Road 2, Sion (E), Bombay—400 022 and which is assigned the approval mark IND|13|95|45.



The model (see figure) is a multi product dispensing pump for dispensing petrol and diesel fuel. The technical details of the machine are as follows :

Manufacturer

M/s Schlumberger Schweim Tanksysteme
GmbH

Lohrerstrasse 1
5830 Schweim Germany
Name of the
machine

Multi Product Dispensing Pumps
Type :—SM 100

Minimum flow rate 2 liters|minute

Maximum flow rate 80 litres|minute

Maximum pressure 4 bar (bague)
 Nature of liquids
 Display Unit
 gasoline and Diesel
 Common Coca calculator with digital display
 Maximum temperature + 50°C
 Maximum temperature -- 10°C
 Measuring principle
 Volumetric (2—piston, double working PD — meters)
 Field of application
 Fuel dispensers for motor vehicles (Other than LPG)
 Cycle volume
 Pluser
 0.5 l
 Eltomatic-manufacturer
 01-09-type
 Power source
 220 Volts 50 Hertz A. C. power

[File WM 21(46)95]

RAJIV SRIVASTAVA, Jt. Secy.

कोयला मंत्रालय

नई दिल्ली, 11 अगस्त 1996

का.आ. 1275 --केन्द्रीय सरकार ने कोयला क्षारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 7, उपधारा (1) के अधीन जारी और भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) दिनांक 24 जून, 1995 की पृष्ठ संख्या 2362 से 2365 में प्रकाशित भारत सरकार कोयला मंत्रालय की अधिसूचना का.आ. 1733 दिनांक 7 जन, 1995 द्वारा इस अधिसूचना में संलग्न अनुसूची में वर्णित भूमि का अधिग्रहण करने के अपने आशय को सूचना दी थी :-

और केन्द्रीय सरकार की जानकारी में यह बात आई गई कि राजपत्र में प्रकाशित दारोला अधिसूचना में त्रुटि को कुछ संशोधन है।

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों और इस निम्नलिखित नथम बताते वाली अन्य सभी शक्तियों का प्रयोग करते हुए उक्त अधिसूचना में संलग्न अनुसूची में निम्नलिखित संशोधन करती है :-

पृष्ठ 2362 पर--अधिसूचना में पैरा 1 में "तारीख 4 दिसम्बर, 1993" के स्थान पर "तारीख 4 दिसम्बर, 1993" पढ़ें।

पृष्ठ 2363 पर--

1. अनुसूची में "कुल क्षेत्र 378.09 हैक्टर" के स्थान पर "कुल क्षेत्र 378.01 हैक्टर" पढ़ें।
2. ग्राम अग्निवाड़ा से अर्जित किए जाने वाले प्लॉट संख्यांक में--

"41/1--41/2 41/3--41/4" के स्थान पर "41/1--41/2--41/3--41/4" पढ़ें।

3. बाग पटकाखेरी में अर्जित किए जाने वाले प्लॉट संख्यांक में--

"163/1 163/2" के स्थान पर "163/1--163/2" पढ़ें।

"मड़क" के स्थान पर "मड़क भाग, ताप्ता भाग" पढ़ें।

पृष्ठ 2364 पर--

सीमा वर्णन में-- (1) रेखा ग-घ में "ग्राम कोटीडी और शेरगंगा" के स्थान पर "ग्राम कोटीडी और शेरगंगा" पढ़ें।

(2) रेखा--ड--क में--

"फिर प्लॉट संख्यांक 52 में प्लॉट संख्यांक 45/1--45/2--45/3--45/4--45/5--45/6 45/7--45/8--45/9--45/10 की बाहरी सीमा के साथ-साथ ग्राम अग्निवाड़ा से होकर आगे बढ़ता है" के स्थान पर "फिर प्लॉट संख्यांक 45/1--45/2--45/3--45/4--45/5--45/6--45/7--45/8--45/9--45/10 की बाहरी सीमा के साथ-साथ ग्राम अग्निवाड़ा से होकर आगे बढ़ती है. प्लॉट संख्यांक 52 में पढ़ें।

ऐसी भूमि में, जिसकी बाबत उपरोक्त संशोधन जारी किया गया है, जिसके कोई व्यक्ति इस अधिसूचना के जारी किए जाने के तीन दिनों के भीतर उक्त भूमि के सम्पूर्ण या किसी भाग के उसी भूमि में या उस पर किसी अधिकार के अर्जित किए जाने के विरुद्ध उक्त अधिनियम की धारा 8 का उपधारा (1) के निबंधों के अनुसार आपेक्ष कर सकेगा।

कोयला निगम, 1, काउन्सिल हाउस स्ट्रीट कायला को दिनांक 27-5-1983 की अधिसूचना संख्या का.आ. 2519 के द्वारा सक्षम प्राधिकारों के रूप में घोषित किया गया है जो कि भारत के राजपत्र में पृष्ठ सं 2446 से 2450 पर दिनांक 11-6-1983 को प्रकाशित हुआ है।

स्पष्टीकरण--केवल इस अधिसूचना के द्वारा संशोधित प्लॉट संख्यांकों की बाबत उक्त अधिनियम की धारा 8(1) के निबंधों के अनुसार तीन दिनों के भीतर उक्त अधिसूचना के राजपत्र के राजपत्र में प्रकाशित किए जाने की आवश्यकता से श्रममुक्त होगा।

[सं. 13015/6/92 एन.एस. डब्ल्यू.]

पी. एल. सेनी, अवर सचिव

MINISTRY OF COAL

New Delhi, the 11th April, 1996

S.O. 1275.—Whereas by the notification of the Government of India in the Ministry of Coal numbered S.O. 1733, dated the 7th June, 1995, published in the Gazette of India, dated the 24th June, 1995, Part II, Section 3, Sub-section (ii) at pages 2362 to 2365, issued under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire the lands described in the Schedule appended to that notification;

And whereas it has been brought to the notice of the Central Government that certain errors of printing nature have occurred in the publication of the said notification in the Official Gazette;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby amends the Schedule appended to the said notification as follows :—
 at page 2364

(1) In the notification in 1st para for "dated the 4th December, 1993" read "dated the 4th December, 1993."

(2) At page 2365

(i) In plot numbers to be acquired in village Patkakhedi for "130/1-30/2" read "130/1-130/2".

(ii) in the boundary description.

(a) in line B-C for "then proceeds" read "then proceeds along the northern boundary of road and passes".

(b) In line 'D-E' for "Kotodi and Adara" read 'Kotodi and Adasa'.

Any person interested in any land in respect of which the above amendment has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the said land, n any right in or

over such lands in terms of sub-section (1) of section 8 of the said Act.

The Coal Controller, 1, Council House Street, Calcutta, has been declared by the Central Government as the competent authority vide notification number S.O. 2519, dated the 27th May, 1983, published in the Gazette of India, dated the 11th June, 1983 at pages 2446 to 2450.

Explanation : In respect of plot numbers amended through this notification only, the said period of thirty days in terms of sub-section (1) of section 8 of the said Act, starts running from the date of issue of this notification.

[No. 43015/6/92-LSW]

Mrs. P. L. SAINI, Under Secy.

नई दिल्ली, 11 अप्रैल, 1996

का. आ. 1276:—केन्द्रीय सरकार को यह प्रतीत होना है, कि इसमें उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है,

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है, की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अंतर्गत आने वाले रेखांक सं. सी-1 (ई) (iii)/एफ/आर/533-293 तारीख 10 फरवरी, 1993 का निरीक्षण वैस्टर्न कोलफील्ड्स लिमिटेड (राजस्व विभाग) कोल एस्टेट सिविल लार्डन्स नागपुर 440001 के कार्यालयों में या कलकत्ता नागपुर (महाराष्ट्र) के कार्यालय में कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता कि कार्यालय में किया जा सकता है। इस अधिसूचना के अंतर्गत आने वाली भूमि में हितवृद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को, इस अधिसूचना के प्रकाशन की तारीख से नब्बे दिन के भीतर, भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व) वेस्टर्न कोलफील्ड्स लिमिटेड, कोल एस्टेट, सिविल लार्डन्स नागपुर-440001 महाराष्ट्र को भेजेंगे।

अनुसूची

सोआनेर परियोजना फेज विस्तार (खान सं. 3)

नागपुर क्षेत्र

जिला नागपुर (महाराष्ट्र)

| क्रम सं. | ग्राम का नाम | पटवारी सफिल सं. | तहसील | जिला | क्षेत्र हेक्टर में | टिप्पणिया |
|-----------------------------|--------------|-----------------|----------|--------|--------------------|-----------|
| 1. | दुधावदी | 12क | कालेश्वर | नागपुर | 57.95 | भाग |
| 2. | साओंगी | 10 | साओनेर | नागपुर | 180.00 | भाग |
| 3. | हैती | 10 | साओनेर | नागपुर | 548.60 | भाग |
| 4. | साओनेर | 34 | साओनेर | नागपुर | 58.43 | भाग |
| कुल क्षेत्र : 844.98 हेक्टर | | | | | | (लगभग) |
| या 2087.94 एकड़ | | | | | | (लगभग) |

सीमा वर्णन :—

- क-ख रेखा बिन्दु “क” से आरंभ होती है और हैती तथा कोरेघेट ग्रामों की सम्मिलित ग्राम सीमा के साथ-2 जाती है फिर हैती ग्राम से होकर आगे बढ़ती है और हैती तथा पार्दी ग्रामों की सम्मिलित ग्राम सीमा के साथ-2 जाती है और बिन्दु “ख” पर मिलती है।
- ख-ग रेखा हैती और साओनेयर ग्रामों की सम्मिलित ग्राम सीमा के साथ-साथ जाती है फिर साओनेर ग्राम से होकर आगे बढ़ती है और बिन्दु “ग” पर मिलती है।
- ग-घ रेखा साओनेर और दुधबावर्दी ग्रामों से होकर जाती है फिर दुधबावर्दी और साओनेर ग्रामों की सम्मिलित ग्राम सीमा के साथ -2 आगे बढ़ती है फिर साओगी ग्राम से होकर जाती है और साओगी और सितौली ग्रामों की सम्मिलित ग्राम सीमा के साथ-साथ आगे बढ़ती है और बिन्दु “घ” पर मिलती है।
- घ क रेखा साओगी और कम्पनी हैती और कपटी ग्रामों की सम्मिलित ग्राम सीमा के साथ-साथ जाती है और प्रारम्भिक बिन्दु “क” पर मिलती है।

[सं. 43015 /5 /96-एस एस डब्ल्यू]

पी. एल. सैनी, अवर सचिव

New Delhi, the 11th April, 1996

S.O. 1276.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. C-1(E) III/FR/533-293 dated the 10th February, 1993 of the area covered by this notification

can be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440001 (Maharashtra) or in the office of the Collector, Nagpur (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of Section 13 of the said Act to the Officer-in-charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur-440001 (Maharashtra) within ninety days from the date of publication of this notification.

SCHEDULE

Saoner Project Phase-I Extension (Mine No. 3)

Nagpur Area

District Nagpur (Maharashtra)

| Serial Number | Name of village | Patwari circle number | Tahsil | District | Area in hectares | Remarks |
|---------------|-----------------|-----------------------|------------|----------|------------------|---------|
| 1. | Dudhabardi | 12A | Kalmeshwar | Nagpur | 57.95 | Part |
| 2. | Saongi | 10 | Saoner | Nagpur | 180.00 | Part |
| 3. | Heti | 10 | Saoner | Nagpur | 548.60 | Part |
| 4. | Saoner | 34 | Saoner | Nagpur | 58.43 | Part |

Total area :

844.90 hectares

(approximately)

or 2087.94 acres

(Approximately)

Boundary description :

A-B Line starts from point 'A' and passes along the common village boundary of village Heti and Koreghate, then proceeds through village Heti and passes along the common village boundary of villages Heti and Pardi and meets at point 'B'.

B-C Line passes along the common village boundary of villages Heti and Saoner, then proceeds through village Saoner and meets at point 'C'.

C-D Line passes through villages Saoner and Dudhabardi, then proceeds along the common village

boundary of villages Dudhabardi and Saongi, then passes through village Saongi and proceeds along the common village boundary of villages Saongi and Senoli and meets at point 'D'.

D-A Line passes along the common village boundary of villages Saongi and Kamptee, Heti and Kamptee and meets at starting Point 'A'.

[No. 43015/5/96-LSW]

MRS. P. L. SAINI, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 25 मार्च, 1996

का.आ. 1277.—केन्द्रीय सरकार, होम्योपैथी केन्द्रीय परिषद्, अधिनियम 1973 (1973 का 59) की धारा 13 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए; केन्द्रीय होम्योपैथी परिषद् से परामर्श करने के पश्चात्, उक्त अधिनियम, की दूसरी अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात्:—

“राजस्थान” से संबंधित मद 13 अथवा उससे संबंधित प्रविष्टियों के पश्चात्, निम्नलिखित मद और प्रविष्टियां अंतःस्थापित की जाएंगी, अर्थात्:—

| | | |
|--|--|-----------------------|
| डा. एम. पी. के. राजस्थान, होम्योपैथी मेडिकल कॉलेज, | बैचलर आफ होम्यो- पैथी, मेडिसिन एम.एस. एंड सर्जरी | बी.एच. 1990 से आगे |
|--|--|-----------------------|

[आर. 14015/25/93-होम्यो.]

कान्वल दास, अवर सचिव

टिप्पण: केन्द्रीय होम्योपैथी परिषद् दूसरी अनुसूची अधिनियम 1973 के भारत का राजपत्र (असाधारण) भाग-II खंड-1 (सं. 76), दिनांक 20 दिसम्बर, 1973 में प्रकाशित की गई तथा तत्पश्चात् निम्नलिखित द्वारा संशोधित की गई:—

का.आ. 3325 दिनांक 4-11-1978
का. आ. 1617 दिनांक 26-2-1983
का.आ. 1481 दिनांक 12-3-1983
का.आ. 3099 दिनांक 21-6-1985
का.आ. 2048 दिनांक 24-3-1986
का.आ. 2270 दिनांक 24-5-1986
का.आ. 2449 दिनांक 01-8-1990
का.आ. 2501 दिनांक 1-8-1990
का.आ. 2002 दिनांक 21-8-1990
का.आ. 710 दिनांक 20-2-1992
का.आ. 891 दिनांक 5-3-1992
का.आ. 1210 दिनांक 23-4-1992
का.आ. 978 दिनांक 28-4-1993
का.आ. 1325 दिनांक 17-5-1994 और
का.आ. 2363 दिनांक 24-10-1994

MINISTRY OF HEALTH & FAMILY
WELFARE

(Department of ISM & H)

New Delhi, the 25th March, 1996

S.O. 1277.—In exercise of the powers conferred by sub-section (2) of section 13 of the Homoeopathy Central Council Act, 1973 (59 of 1973), the Central Government, after consulting the Central Council of Homoeopathy, hereby

makes the following further amendment in the Second Schedule to the said Act, namely:—

In the said schedule relating to “Rajasthan” after 13DD, and the entries therein, the following item and the entries shall be inserted namely:—

| 1 | 2 | 3 | 4 |
|--|--|------|-------------|
| Dr. M.P.K. Rajasthan Homoeopathy Medical College | Bachelor of Hom oeopathic Medicine and Surgery | BHMS | 1990 Onward |

[R. 14015/25/93-Homoeo]
KANWAL DASS, Under Secy.

Note : The Second Schedule to the Homoeopathy Central Council Act, 1973 was published as the part of the said Act in the Gazette of India-Extra Ordinary, Part II, Section I (No. 76), dated the 20th December, 1973 and subsequently amended by:—

S.O. 3325, dated 4-11-1978
S.O. 1617, dated 26-2-1983
S.O. 1481, dated 12-3-1983
S.O. 3099, dated 21-6-1985
S.O. 2048, dated 24-3-1986
S.O. 2270, dated 24-5-1986
S.O. 2449, dated 1-8-1990
S.O. 2501, dated 1-8-1990
S.O. 2002, dated 21-8-1990
S.O. 710, dated 20-2-1992
S.O. 891, dated 5-3-1992
S.O. 1210, dated 23-4-1992
S.O. 978, dated 28-4-1993
S.O. 1325, dated 17-5-1994 and
S.O. 2363, dated 24-10-1994

(स्वास्थ्य विभाग)

नई दिल्ली, 2 अप्रैल, 1996

का. आ. 1978.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 20 की उपधारा (1) और उपधारा (3) के अनुसरण में, भारतीय आयुर्विज्ञान परिषद् के अध्यक्ष डा. केतन धीरजलाल बेसार्ई को स्नातकोत्तर आयुर्विज्ञान शिक्षा समिति में नामनिर्दिष्ट करती है और भारत सरकार के स्वास्थ्य और परिवार कल्याण

मंत्रालय की अधिसूचना सं. का. भा. 2827, तारीख 17 अक्टूबर, 1991 में निम्नलिखित और संशोधन करती है, अर्थात्—

उक्त अधिसूचना में, “केन्द्रीय सरकार द्वारा नामनिर्दिष्ट” शीर्षक के नीचे क्रम संख्यांक “1” तथा उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित संख्यांक और प्रविष्टि रखी जाएगी, अर्थात्—

“1. डा. केतन धीरजलाल देसाई,
प्रोफेसर और अध्यक्ष,
यूरोलोजी विभाग,
बी. जे. मेडिकल कॉलेज और सिविल अस्पताल,
अहमदाबाद (गुजरात)”

[सं. बी.-- 11013/6/95--एम. ई. (यू. जी.)]

एस. के. मिश्रा, डेस्क अधिकारी

टिप्पणी:—मूल अधिसूचना दिनांक 17 अक्टूबर, 1991 की अधिसूचना संख्या का. भा. 2827 के तहत भारत के राजपत्र में प्रकाशित की गई थी।

(Department of Health)

New Delhi, the 2nd April, 1996

S.O. 1278.—In pursuance of sub-sections (1) and (3) of Section 20 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby nominates Dr. Ketan Dhirajlal Desai, a member of Medical Council of India, to be a member of the Post-Graduate Medical Education Committee and makes the following further amendment in the notification of the Government of India in the Ministry of Health and Family Welfare, number S.O. 2827, dated 17th October, 1991, namely :

In the said notification under the heading “NOMINATED BY THE CENTRAL GOVERNMENT”, for serial number 1 and the entry relating thereto, the following serial number and entry shall be substituted, namely :—

“1. Dr. Ketan Dhirajlal Desai,
Professor and Head,
Department of Urology,
B.J. Medical College and Civil Hospital
Ahmedabad, Gujarat.”

[No. V-11013/6/95-ME (UG)]

S. K. MISHRA, Desk Officer

Footnote—The principal notification was published in the Gazette of India vide notification number S.O. 2827, dated the 17th October, 1991.

नई दिल्ली, 2 अप्रैल, 1996

का. भा. 1279.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 7 की उपधारा (4) के साथ पठित धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार एतद्द्वारा भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना सं. का. भा. 138, तारीख 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात्—

उक्त अधिसूचना में, “धारा 3 की उपधारा (1) के खंड (इ.) के अधीन “नामनिर्दिष्ट” शीर्षक के नीचे क्रम संख्या 1 और उससे संबंधित

प्रविष्टि के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टि रखी जाएगी अर्थात्—

“डा. कनंजर रघुराम शेट्टी,
निदेशक—प्रोफेसर,
कार्डियोवास्कुलर एवं थोरेसिस शल्य चिकित्सा,
ग्रंट मेडिकल कॉलेज,
जे. जे. अस्पताल, मुम्बई।”

[सं. बी.-- 11013/33/94--एम ई (यू. जी.)]

एस. के. मिश्रा, डेस्क अधिकारी

पाद टिप्पणी:—प्रधान अधिसूचना भारत के राजपत्र में दिनांक 9-1-1960 के का. भा. सं. 138 के तहत प्रकाशित की गई थी।

New Delhi, the 2nd April, 1996

S.O. 1279.—In exercise of the powers conferred by sub-section (1) of Section 3 read with sub-section (4) of Section 7 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby makes the following further amendments in the notification of the Government of India in the then Ministry of Health No. S.O. 138, dated the 9th January, 1960, namely :—

In the said notification, under the heading “nominated under clause (e) of sub-section (1) of Section 3,” for serial number 1 and the entry relating thereto, the following serial number and entry shall be substituted, namely :—

“1. Dr. Kananjar Raghuram Shetty,
Director-Professor,
Cardiovascular and Thoracic Surgery,
Grant Medical College, J.J. Hospital,
Bombay.”

[No. V-11013/33/94-ME (UG)]

S. K. MISHRA, Desk Officer

Footnote—The principal notification was published in the Gazette of India vide number S.O. 138, dated 9-1-1960.

(स्वास्थ्य विभाग)

नई दिल्ली, 3 अप्रैल, 1996

का. भा. 1280.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1955 (1955 का 102) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 3 की उपधारा (1) के खंड (ख) के उपबंधों के अनुसरण में, मैसूर विश्वविद्यालय की सनित द्वारा डा. आर. सीतालक्ष्मी, प्रधानाचार्य गवर्नमेंट मेडिकल कॉलेज, मैसूर को, डा. एम. माणिक्यराजू के स्थान पर निर्वाचन की तारीख, अर्थात् 27 सितम्बर, 1995 से 16 अगस्त, 1998 तक की उसकी अवधि की शेष अवधि के लिए, भारतीय आयुर्विज्ञान परिषद् का सदस्य निर्वाचित किया गया है।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (4) के साथ पठित धारा 3 की उपधारा (1) के खंड (ख) के अनुसरण में, भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना संख्यांक का. भा. 138, तारीख 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात्—

उक्त अधिसूचना में, “धारा 3 की उपधारा (1) के खण्ड (ख) के अधीन निर्वाचित” शीर्षक के नीचे क्रम संख्यांक 20 और उससे संबंधित

प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्याक और प्रविष्टियाँ रखी जाएंगी, अर्थात्:—

“20 डा. आर. सीतालक्ष्मी मैसूर विश्वविद्यालय”
प्रधानाचार्य
गवर्नमेंट मेडिकल कालेज,
मैसूर, (कर्नाटक)

[सं. बी. 11015/35/94—एम. ई. (सू. जी.)]

एस. के. मिश्रा, डेस्क अधिकारी

टिप्पणी:—मूल अधिसूचना भारत के राजपत्र का. भा. सं. 138, दिनांक 9 जनवरी, 1960 में प्रकाशित किया गया था।

New Delhi, the 3rd April, 1996

S.O. 1280.—Whereas in pursuance of clause (b) of sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956), (hereinafter referred to as the said Act) Dr. R. Seethalakshmi, Principal, Government Medical College, Mysore has been elected by the Senate of the University of Mysore to be a member of Medical Council of India in place of Dr. M. Manikyaraju for the remaining period of his term upto 16th August, 1998 with effect from 27th September, 1995, the date of election.

Now, therefore, in pursuance of clause (b) of sub-section (1) of Section 3 read with sub-section (4) of Section 7 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the erstwhile Ministry of Health Number S.O. 138, dated the 9th January, 1960, namely:—

In the said notification, under the heading “Elected under clause (b) of sub-section (1) of Section 3” for serial number 20 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

“20. Dr. R. Seethalakshmi University of Mysore”
Principal,
Government Medical College,
Mysore, (Karnataka).

[No. V-11015/35/94-ME (UG)]

S. K. MISHRA, Desk Officer

Note—The Principal notification was published in the Gazette of India vide Notification Number S.O. 138, dated the 9th January, 1960.

(स्वास्थ्य विभाग)

नई दिल्ली, 10 अप्रैल, 1996

का.भा. 1281—केन्द्रीय सरकार ने भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खंड (क) के अनुसरण में और गोवा सरकार से परामर्श करके डा. डब्ल्यू. के. बेलोकर, संकायाध्यक्ष, गोवा मेडिकल कालेज, गोवा को इस अधिसूचना के जारी करने की तारीख से भारतीय आयुर्विज्ञान परिषद् के सदस्य के रूप में नामनिर्दिष्ट किया है।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 3 की उपधारा (1) के उपबंधों के अनुसरण में, भारत सरकार के तात्कालिक स्वास्थ्य

मंत्रालय की अधिसूचना सं. का.भा. 138, तारीख 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में, शीर्षक धारा 3 की उपधारा (1) के खंड (क) के अधीन नामनिर्दिष्ट के नीचे, क्रम सं. 23 और उससे संबंधित प्रविष्टियों के स्थान पर, निम्नलिखित क्रम सं. और प्रविष्टियाँ रखी जाएंगी, अर्थात्:—

“23. डा. डब्ल्यू. के. बेलोकर,
संकायाध्यक्ष,
गोवा मेडिकल कालेज,
गोवा।”

[सं. बी.-11013/2/195-एम.ई. (पू. जी.)]

एम. के. मिश्रा, डेस्क अधिकारी

पाद टिप्पणी:—मूल अधिसूचना भारत के राजपत्र अधिसूचना सं. का. भा. 138, दिनांक 9 जनवरी, 1960 में प्रकाशित किया गया।

New Delhi, the 10th April, 1996

S.O. 1281.—Whereas the Central Government in pursuance of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Goa, have nominated Dr. W. K. Belokar, Dean, Goa Medical College, Goa to be a member of the Medical Council of India from the date of issue of the notification.

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the then Ministry of Health, number S.O. 138, dated the 9th January, 1960, namely:—

In the said notification, under the heading “Nominated under clause (a) of sub-section (1) of section 3,” for serial number 23 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

“23. Dr. W.K. Belokar,
Dean,
Goa, Medical College,
Goa.”

[No. V-11012/21/95-ME(UG)]

S. K. MISHRA, Desk Officer

Footnote:—The principal notification was published in the Gazette of India vide notification number S.O. 138, dated the 9th January, 1960.

सूचना और प्रसारण मंत्रालय
नई दिल्ली, 4 अप्रैल 1996

का.भा. 1282.—केन्द्रीय सरकार, चलचित्रिकी (प्रमाणन) नियम, 1982 के नियम 7 व 8 के साथ पठित चलचित्रिकी अधिनियम, 1952 (1952 का 37) की धारा-5 की उप-धारा (i) में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय फिल्म प्रमाणन बोर्ड के बंबई सलाहकार पैनल से श्री सुभाष पांडे के त्यागपत्र को तत्काल प्रभाव से स्वीकार करती है।

[फा. सं. 809/4/93 एफ (सी)]

आर. सी. शहादपुरी, डेस्क अधिकारी

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 4th April, 1996

S.O. 1282.—In exercise of the powers conferred by sub-section (i) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1982 the Central Government is pleased to accept the resignation of Shri Subash Pandey from the Bombay Advisory Panel of the C.B.F.C. with immediate effect.

[F. No. 809/93-F(C)]

R. C. SHADADPURI, Desk Officer

विद्युत् मंत्रालय

नई दिल्ली, 8 अप्रैल, 1996

का.भा. 1283.—सार्वजनिक स्थान (अप्राधिकृत) अधिनियमों की वेदवली अधिनियम, 1971 (1971 का 40) की धारा 3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गयी तालिका के कालम (1) में उल्लिखित एक सार्वजनिक प्राधिकरण, राष्ट्रीय ताप विद्युत् निगम लि., (एनटीपीसी) के अधिकारी जो कि भारत सरकार राजपत्रित अधिकारी के समकक्ष हैं, को कथित अधिनियम के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है और वह उल्लिखित तालिका के कालम-2 में संबंधित प्रविष्टि में निविष्ट सार्वजनिक स्थानों के बारे में कथित अधिनियम के द्वारा अथवा उसके अंतर्गत संपदा अधिकारी को प्रदत्त की गयी शक्तियों का उपयोग कर सकेगा और संपदा अधिकारी को सौंपे गये कर्तव्यों का पालन करेगा।

| क्र.सं. | अधिकारी का नाम एवं पद | सार्वजनिक स्थलों की श्रेणियां तथा क्षेत्राधिकार की स्थानीय सीमा |
|---------|---|---|
| 1. | श्री. जे. सी. सुरदेव, वरिष्ठ पी. प्रबंधक (कार्मिक एवं प्रशासन) तलचर ताप विद्युत् केन्द्र, उड़ीसा। | श्री. तलचर ताप, जिप्सा अंगुल उड़ीसा-759101 में अवस्थित राष्ट्रीय ताप विद्युत् निगम लिमिटेड के तलचर ताप विद्युत् केन्द्र के स्वामित्व में, ऊर्जा बोरा पट्टे पर अथवा किराये पर ली गयी समस्त भूमि, संपदा, संपदा संपत्ति तथा अन्य प्रादास |

[सं. 8/8/92-यू.एस. (सीटी)]

रमेश चन्द, अवर सचिव

MINISTRY OF POWER

New Delhi, the 8th April, 1996

S.O. 1283.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the table below, being an officer of a statutory authority and equivalent to the rank of gazetted officer of the Government of India, to be estate officer for the purpose of the said Act who shall exercise the powers conferred and perform the duties imposed on an estate officer by or under the said Act, within the limits of his jurisdiction in respect of the categories of public premises specified in the corresponding entry in column (2) of the said table.

TABLE

| Name and designation of the Officer | Categories of public premises and limits of jurisdiction |
|---|--|
| 1 | 2 |
| Shri G.C. Surdeo, Deputy Manager (Personnel and Administration), Talcher Thermal Power Station, Orissa. | All lands, quarters, estates, properties and other accommodation owned, leased and rented out by the Talcher Thermal Power Station of National Thermal Power Corporation Limited located at P.O. Talcher Thermal, District Angul, Orissa- 759 101. |

[No. 8/6/92—US (CT)]

RAMESH CHANDER, Under Secy.

भारत सरकार

नई दिल्ली, 27 मार्च, 1996

का. भा. 1284—औद्योगिक विवाद अधिनियम, 1947 (1947 का. 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक. सी. आई. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-96 को प्राप्त हुआ था।

[सं. एल. 42011/31/87-डी-11(बी) /डी IV (बी)]

राजा लाल, ईस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 27th March, 1996

S.O. 1284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 26-3-1996.

[No. L-42011/31/87-D II (B) D.IV (B)]

RAJA LAL Desk Officer

ANNEXURE

BEFORE SHRI S. R. BANSAL, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 57/89

Yaduwansh Yadav workman represented by General
Secretary FCI Class IV employees Union Regd.
House No. B-III/153 Nabha Gate Sangrur —Work-
man

Vs.

1. Zonal Manager (N) FCI, New Delhi.
2. The Senior Regional Manager, FCI Punjab, Chandigarh
—Respondents.

For the workman—None.

For the management—Shri N. K. Zakhmi.

AWARD

The Central Government vide its order No. L-42011/31/87-D.II (B)/D.IV (B) dated 2nd August 1988 has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Food Corporation of India represented by the Managing Director, Zonal Manager (N), the Senior Regional Manager, Punjab in not allowing seniority at S. No. 984 by counting continuity of service w.e.f. June 1971 and non-granting increment from the said date of June 1971 to Sri Yaduwansh Yadav Watchman is justified? If not, to what relief the workman is entitled and from what effect?"

On receipt of reference, notices were issued to the workman as well as to the management. The workman appeared and submitted his statement of claim. He pleaded having joined service of the management in June 1971. It is alleged that his services were illegally terminated w.e.f. 3-8-78 in violation of the mandatory provisions of the Industrial Disputes Act. It is also alleged that although his services were terminated w.e.f. 3-8-74, yet he was served with termination order on 7-8-74. The workman served demand notice and raised a industrial dispute. However during conciliation proceedings a settlement took place on 1-6-76 and as a result of the settlement, the workman was issued appointment order by the District Manager FCI, Ludhiana

vide office order No. A1(7)75-76/11739 dated 3/5-6-76. According to the workman, although the settlement was for regular appointment, yet, he was appointed on adhoc and temporary basis in violation of the terms of the settlement. As per Memorandum of Settlement, the workman was sanctioned extra ordinary leave without wages for the intervening period w.e.f. 3-8-74, the day of his re-appointment by the District Manager, Ludhiana vide his office order No. A/1(2093) 76/13923 dated 30-6-76/6-7-76 and due to the sanction of the leave he remained in the continuous employment of the management up to June 1976. However his seniority has been fixed at No. 3841. Later on in the revised seniority list the workman was shown at Sr. No. 4171 without any notice. Again his seniority was revised vide letter dated 16-1-1988 and now the seniority number of the workman was fixed at Sr. No. 1721 without any notice. It is alleged that the seniority of the workman has been fixed by the management counting his service from the year 1976 when he was re-appointed as per settlement dated 1-6-1976. This action of the management is illegal and the seniority number of the workman should be fixed at serial number 984 and he should be at serial number 4 in the new seniority list circulated vide letter dated 16-1-1988. It is alleged that no notice was given to the workman before refixing his seniority and increments have also been allowed by counting his service w.e.f. June 1976 by ignoring his initial appointment. The workman therefore, demanded that his seniority should be fixed w.e.f. June 1971 and his name in the seniority list should be at No. 984 in the old seniority list and at No. 4 in the new seniority list and he be also paid his annual increments accordingly.

The management however pleaded that initially the workman was engaged on day to day basis @ Rs. 5 per day by the depot incharge, Samrala on 10-6-1971 and the services of all such workmen including the workman were disengaged w.e.f. 3-8-74. It was pleaded that the workman joined the management on 7-6-76 and from that date he was given seniority. It was admitted that it was one of the terms of settlement that the workman be sanctioned extra ordinary leave without wages for from 3-8-74 to the date of his appointment. Regarding seniority it was pleaded that the workman was given seniority at Sr. No. 3841 circulated on 31-12-1977, whereas the seniority of the direct recruits is being determined as per procedure laid down under Section 16(1) of the FCI Staff Regulation. It was also pleaded that the workman was assigned seniority at No. 4171 keeping in view his date of selection and change of shifting his name from seniority No. 3841, to 4171 takes place owing to the fact that some officials senior to the workman were left to be included in the seniority list circulated on 31-12-1977. It was denied that any junior official has been given seniority above the workman. The plea taken is that the workman has been given his seniority in the seniority list circulated in the seniority list circulated in the year 1987.

Workman in his replication filed, controverted the allegations as made in the written statement by the management and has reiterated his earlier pleas.

On the basis of the pleadings both the parties were asked to produce their evidence. Yaduwansh Yadav workman appeared as WW-1 and tendered his affidavit Ex. W-1 and produced documents Ex. W-2 to Ex. W-7. During cross-examination, he admitted that he worked as casual labour from 10-1-1971 to 3-8-74 and thereafter his services were dispensed with. He stated that after his disengagement he raised an industrial dispute wherein a settlement Ex. W-2 took place and he joined service on the basis of this settlement and the intervening period from 3-8-74 to the date of his joining was treated as extra ordinary leave of the kind due. He was unable to tell that seniority list was issued or whether he it was issued on 31-12-1977 and his name was shown at serial number 3841. He also could not tell that his name was at Sr. No. 1731 and admitted that he did not make representation after release of the seniority list. In rebuttal the management has produced MW-1 C. K. Oberoi who tendered his affidavit Ex. W-1. At that point of time learned representative of the workman has pleaded no instructions on behalf of the workman and as such no learned predecessor vide his order dated 7-2-1995 initiated the proceedings under Rule 22 of the Industrial Disputes (Central Rules) 1958. Now the averments made in the affidavit Ex. M-1 have gone unchallenged. The perusal of affidavit Ex. M-1 shows that workman was engaged only on daily

wage basis @ Rs. 5 per day on 10-6-1971 and he was disengaged on 3-8-1974 as there was no work to engage him. It further shows that the workman raised industrial dispute as a result of which a settlement was took place between the workman and the FCI on 1-6-1976 and as per settlement he was not entitled to any seniority. It also reveals that as per settlement the workman was appointed on adhoc basis and his services were to be regularised subject to availability of the post. The workman joined on 7-6-76 and he was given seniority from that date and he was sanctioned extra ordinary leave without wages for the intervening period from 3-8-74 to the date of his appointment. Perusal of para No. 6 also shows that this regularisation of intervening period is only for the purpose of retrenchment benefits. A perusal of para No. 7 of the affidavit shows that the workman was assigned seniority at serial No. 3841 circulated on 31-12-1977 and seniority of the direct recruits in the Corporation is being determined as per procedure laid down in Regular 16(1) of the FCI Staff Regulation. There is thus no deviation of the rules and regulations of the FCI and assigning of the seniority at Sr. No. 4171 is also keeping in view the date of his selection. He was given seniority at serial No. 4171 from 3841 owing to the fact that some persons senior to the workman were left to be included in the seniority list circulated on 31-12-1977. From the un-rebutted evidence on the record, it is proved on the file that the workman was not entitled to benefits of service from June 1971 for the purpose of fixing his seniority nor was he entitled to increments from the said date. The action of the management appears to be legal and justified. This reference is therefore, answered against the workman. Central Government be suitably informed.

Chandigarh,

Dated : 19-2-1996.

S. R. BANSAL, Presiding Officer

नई दिल्ली, 27 मार्च, 1996

का. प्रा. 1285.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. प्रार्थी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बन्दीपट्ट के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-96 को प्राप्त हुआ था।

[सं. एल.-42012/46/86-डी-II/डी-IV (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 27th March, 1996

S.O. 1285.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 26-3-1996.

[No. L-42012/46/86-D.II/D.IV (B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE SHRI S. R. BANSAL, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 68/89

Jai Narain son of Shri Bundu Ram, resident of village
and Post Office Kurad District Sonapat —Work-
man.

Vs.

District Manager, Food Corporation of India, Rohtak
—Respondent.

For the workman—M. S. Chopra.

For the management—Parmod Jain.

AWARD

The Central Government vide its order No. L-42012/46/88-D.II and D-IV (B) dated 28th April 1989 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Food Corporation of India in relation to District Manager, FCI, Rohtak in denying employment w.e.f. 14-10-87 to Shri Jai Narain as Watchman is legal and justified ? If not to what relief the workman concerned is entitled and from what date ?"

On receipt of reference, notices were issued to the workman as well as to the management. The workman submitted statement of claim wherein he took up the position that he was appointed as a watchman by the respondent and joined as such on 24-6-1986 at H.G. Bandepur (Sonapat) as well as at FSD Sonapat in the quality control Section and his services were terminated on 13-10-1987, although he has completed more than 240 days of continuous service. According to the workman, no prior notice was given and the provisions of Sections 25-G, 25-H and 25-F of the Act were violated. He was not paid any retrenchment compensation. The workman therefore, demanded his reinstatement with continuity of service and back wages.

On the other hand, the plea raised by the management in the written statement filed is that the workman was engaged by the Corporation as casual labourer for 43 days only intermittantly. The management has mentioned the names and number of days for which the workman worked. It was pleaded that the workman was employed by Home Guard/Aman Security and Detective who are his principle employer as per terms and conditions of the agreement between ASD as well as Corporation. The payments were made to the respective agencies. The workman was engaged by Home Guard/ASD who entered into agreement with the management for the supply of security guard to the Corporation for the purpose of security and supply of casual labour under the terms and conditions of the agreement entered between the parties and all the liabilities arising under the I. D. Act or other labour enactment shall be borne by the Security Agencies being the principle employer. There is no relationship of employer and employee between the parties a prayer was therefore, made for the rejection of the claim.

The workman submitted his affidavit Ex. W-1 and appeared as WW-1 and stated that his affidavit may be read in evidence. During cross-examination, he could not deny that the management made payment only after submission of the bills by Home Guard/ASD. He, however denied that there is no relationship of employer and employee between him and the management. In rebuttal the management produced MW-1 Shri S. R. Mathur who proved his affidavit Ex. M-1 almost on the identical lines of the written statement filed on behalf of the management. He also produced documents Ex. M-2 to Ex. M-5. During cross-examination he stated that workman worked through ASD contractor from 1-1-1987 to 7-8-87. Although he used to be marked presence by the employee of the FCI under whose control he was working. MW-2 is J. S. Tanwar, Director Aman Security and Detective Agency who proved agreement Ex. M-2 entered into by him with the Food Corporation of India and stated that the workman was appointed by him for 89 days and that he was being paid by them. The affidavit Ex. M-1 of Shri S. M. Mathur shows that the management engaged the workman as casual labour for 43 days only. It also reveals that the workman is the employee of Home Guard/ASD Agency who are his principle employer and there is no relationship of employer and employee between the parties. Agreement Ex. M-2 duly proved by MW-2 J. S. Tanwar also supports the contention raised on behalf of the management. It reveals that all liabilities arising out of the I. D. Act or other Labour enactments will be borne by the security agency being principle employer. Ex. M-3 and Ex. M-5 copies of the muster roll and also reveal this fact. Ex. M-4 is the certificate issued by the Asstt. Manager of the Corporation which shows that the workman worked as casual labour for few days with the management. From the evidence brought on the record it is quite evident that the workman was never engaged by the management. He was employee of Home Guard/ASD agency who were providing security guards to the management.

Although he was working with the management but he was employee of the principle employer only and there was no relationship of employer and employee between the workman and the management. That being the position, the action of the management in denying employment to the workman is perfectly legal and justified. This reference, therefore, shall stand answered against the workman. Appropriate Government be informed in this regard suitably. Chandigarh.

22-2-96

S. R. BANSAL, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. प्रा. 1286.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.ई. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/3/96 को प्राप्त हुआ था।

[सं. एल.—22012/402/94—आई प्रार (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1286.—In pursuance of Section 17 of the Industrial hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 26-3-96.

[No. L-22012/402/94-IR C-II]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(85)/1995

BETWEEN

Shri Sheemohan Ram Tripathi, represented through Shri S. C. Jain, Secretary, M.P.K.S.S. (CITU) Sohagpur Area, Post Dhanpuri, District Shahdol (MP).

AND

The Sub-Area Manager, Burhar Group of Mines, Post Dhanpuri, District Shahdol (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : None.

For Management : Shri B. B. Singh.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP)

AWARD

Dated : March 8, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(402)/94-IR, C. II Dated 16-5-1995, for adjudication of the following industrial dispute :

SCHEDULE

"Whether the action of Sub-Area Manager, Burhar and Navegaon Sub-Area of Sohagpur Area of SFCL in deleting the name of Sri Shiv Mohan Ram Tripathi, General Mazdoor, Dhanpuri U/G Mine (who was

promoted as Clerk Gr. III (S.E.F. 14-3-93) from revised promotion Order 28-7-92 is legal & justified ? If not, to what relief the workman is entitled to ?"

2. After the reference was made by the Ministry and inspite of the notice sent to the workman/Union, neither the workman nor any representative of the Union appeared before this Tribunal and no statement of claim has been filed on behalf of the workman. The representative of the management informed on 19-2-1996 that the workman is not interested to pursue the dispute and prayed for a no dispute award. In these circumstances, this Tribunal has no alternative but to pass a no dispute award. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. प्रा. 1287.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इश्यू सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/3/96 को प्राप्त हुआ था।

[सं. एल.—22012/45/92—आई प्रार (सी.-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1287.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W. C. Ltd. and their workman, which was received by the Central Government on the 26-3-96.

[No. L-22012/45/92-IR C-II]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. No. CGIT/LC(R)(124)/1992

BETWEEN

Shri Ishwari Prasad S/o Shri Soopchand, Ex-General Mazdoor, Nandan Mine No. 1, P.O. Nandan, District Chhindwara (MP).

AND

The Manager, Nandan Mine No. 1, P.O. Nandan, District Chhindwara (MP)-480774.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Y. K. Karde.

For Management : Shri Chandok.

INDUSTRY : Coal Mines DISTRICT : Chhindwara (MP)

AWARD

Dated : March 6, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/45/92-IR

(C-II) dated 9-6-1992, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Nandan Mine No. 1 of WCL, Kanhan Area in terminating Shri Ishwari Prasad from Company's services w.e.f. 20-12-87 is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. Both the parties contest the dispute by filing their pleadings and documents, issues were framed and the case was fixed for proving the departmental enquiry papers.

3. However, good sense prevailed in the parties and they have mutually settled the dispute. On 6-2-1996 representative of the management filed the Settlement and parties verified the terms of Settlement which are as under :—

TERMS OF SETTLEMENT

1. It is agreed by both the parties that Shri Ishwari Prasad/Supchand, Ex-Gen. Maz., Nandan No. 1 will be reinstated as Gen. Maz. and posted at Tandsi Project.
 2. It is also agreed by both the parties that this settlement will be filed before the CGIT, Jabalpur for giving a consent award in connection with No. CGIT/LC(R)(124)/92 pending in the court in respect of Shri Ishwari Prasad/Supchand, Ex. Gen. Maz., Nandan No. 1.
 3. The period of his dismissal from service w.e.f. 18-12-87 till he joins on reinstatement will be treated as 'No work No pay'. He will not be paid any wages on the principle of 'No work No Pay'. He is also not entitled to any other benefit or wages for the period of his idleness.
 4. On reinstatement, the above workman will be on probation for a period of one year from the date of joining his duties. During this period, his conduct/performance and attendance put in will be watched.
 5. On receipt of satisfactory performance report of his probation, his services will be confirmed. On his confirmation, continuity of service will be granted for the limited purpose of gratuity calculation and not for other purposes in any case.
 6. This settlement shall not be cited as a precedent in any other case or at any other time.
 7. Other service particular will remain same as to before living with the management.
 8. This settlement settles the issue fully and finally.
4. The aforementioned terms of Settlement duly arrived at between the parties on 1-1-1996 are just, fair and in the interest of the workman concerned. Hence award is recorded in terms of the settlement. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. प्र. 1288.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबंधन के संबंध नियोजकों और उनके कामकारों के बीच, प्रत्यक्ष में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/3/96 को प्राप्त हुआ था।

[सं. एस.—22012/397/94—आई आर सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 26-3-96.

[No. L-22012/397/94-IR C-II]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(46)/1995

BETWEEN

Workmen through Shri Dilip Choudhary, Secretary, Samyukta Khadan Mazdoor Sangh (AITUC) Post Sanjay Koyla Nagar, District Shahdol (MP).

AND

The Manager, Dhanpuri Underground Mines, Post Dhanpuri, District Shahdol (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen : None.

For Management : Shri R. Mukhyopadhyaya.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP)

AWARD

Dated : March 8, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(397)/94-IR. C-II dated 2-3-1995, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the Supdt. of Mines/Manager, Dhanpuri Underground Mines of SECL in issuing notice for deducting 8 days wages as per proviso to Sec. 9(2) of P.W. Act 1936 from wages of 184 workers employed in Dhanpuri O/G Mines of Sohagpur Area of SECL who are in receipt of wages more than Rs. 1600/- per month is legal and justified?" If not, to what relief are those workers entitled to?"

2. After the receipt of Reference Order a number of opportunities were granted to the Union to file the statement of claim, but none appeared on behalf of the Union on any dates fixed by this Tribunal, nor statement of claim has been filed. On 19-2-1996, management representative informed that workmen are not interested to pursue the dispute and prayed that no dispute award be passed. Consequently, no dispute award is hereby passed without any order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. प्र. 1289.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबंधन के संबंध नियोजकों और उनके कामकारों के बीच, प्रत्यक्ष में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/3/96 को प्राप्त हुआ था।

[सं. एस.—22012/212/94—आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1289.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 26-3-96.

[No. L-22012/212/94-IR C-II]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
CASE REF. NO. CGIT/LC(R)(168)/1994

BETWEEN

Shri Ramratan S/o Gajroop, represented through the Area President, Koyla Shramik Sabha (H.M.K.P.), Duman Hill Colliery, Post Sonawani Colliery, District Surguja (MP).

AND

The General Manager, Chirimiri Area, S.E.C.L., Post Paschim Chirimiri Colliery, District Surguja (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : None.

For Management : Shri R. Mukhyapadhy.

INDUSTRY : Coal Mines DISTRICT : Surguja (MP)

AWARD

Dated March 8, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012 (212)/94-IR-C-II dated 28-9-94, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the Sub-Area Manager, Duman Hill Colliery of Chirimiri Area of SECL in dismissing Sri Ram Ratan S/o Gajroop, Loader, Duman Hill Colliery from Company's services w.e.f. 15-12-91 is legal and justified? If not, to what relief is the workman entitled to?"

2. In spite of a number of opportunities granted to the workman to file the statement of claim, the workman has neither appeared nor filed the statement of claim. It appears that the workman is not interested in pursuing the case. The management has also informed on 19-2-1996 that the workman is not interested to pursue the case. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. मा. 1290.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबन्धकों के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/3/96 को प्राप्त हुआ था।

[सं. एल.-22012/23/95-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1290.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 26-3-96.

[No. L-22012/23/95-IR C-II]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(155)/1995

BETWEEN

Shri Lakhan, BTL T. No. 0282, represented through Shri Jagdish Singh, General Secretary, Koyla Mazdoor Sabha (UTUC), Post Dhanpuri, District Shahdol (MP).

AND

The General Manager, Sohagpur Area, S.E.C.L. Post Dhanpuri, District Shahdol (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Jagdish Singh.

For Management : Shri B. B. Singh.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP)

AWARD

Dated : March 8, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/23/95-IR(C-II) dated 30-8-1995, for adjudication of the following industrial disputes :—

SCHEDULE

"क्या प्रबन्धकों महाप्रबन्धक, सोहागपुर क्षेत्र, एस.सी. सी.एल. पोस्ट धनपुरी जिला शहडोल (म.प्र.) के प्रबन्धकों द्वारा श्री लखन, बी.टी.एल.टी. नं. 0282 सुभाष माइन को कार्य पर जाने से रोकने की कार्यवाही न्यायोचित है? यदि नहीं, तो सम्बन्धित कर्मकार किस अनुतोप का हकदार है?"

2. Statement of claim on behalf of the workman was filed in this case. Case was fixed for filing the statement of claim-cum-rejoinder by the management, but instead of filing the statement of claim by the management, parties have filed and verified the Settlement. The terms of Settlement are as under :—

TERMS OF SETTLEMENT

1. Shri Lakhan will be reinstated after being found medically fit by the Colliery Medical Officer and posting will be done as per requirement in the Area.
2. The period of absence i.e., from the date of dismissal, till the date of reinstatement will be treated as 'Dies non' on the principles of 'No work No Pay'.

3. The continuity of service will be given for the purpose of Gratuity only.
4. Shri Lakhan will submit an undertaking that he will not repeat such misconduct in future and will not raise any dispute over the above issue, individually or through any Union before any Forum/Court of Law.
5. Both the parties agreed to request the Tribunal to pass consent award accordingly.

This is full and final Settlement of the dispute.

3. The afore-mentioned terms of settlement are just and fair. Award is passed in terms of Settlement. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

क्र. घा. 1291.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जवाहर नवोदया विधालय के प्रबंधन के संबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/3/96 को प्राप्त हुआ था।

[संख्या एल-42012/130/93-आई घार (डी. यू.)]

के. बी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1291.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Jawahar Navodhya Vidhalaya and their workman, which was received by the Central Government on 25-3-96.

[No. L-42012/130/93-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI S. R. BANSAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. ID 161/94

Shri Malkit Ram son of Shri Banta Ram resident of Village Bhago Arian, P.O. Sultanpur Lodhi, District Kapurthala, Punjab ... Workman

Vs.

Jawahar Navodhya Vidhalaya Maseetan, Post Office, Tibba, District Kapurthala, Punjab.—Respondent

AWARD

The Central Govt. vide order dated 42012/130/93-IR(DU) dated 15th November, 1994 has referred the following dispute to this Tribunal for adjudication :—

"Whether dis-engagement of workman Shri Malkit Ram, daily rated worker in J.N.V. Maseetan by Principal JNV, Maseetan amounts to termination of services? If so, to what relief the workman is entitled to?"

In response to notices, workman appeared and submitted his statement of claim and pleaded that he was selected and appointed through employment exchange vide order dated 12-3-1991 and joined his service on 14-3-1991 at Jawahar Navodhya Vidhalaya Maseetan. He was ordered to be relieved vide order dated 30-4-1992. He raised industrial dispute and

during conciliation proceedings, the management agreed to re-instate him without backwages. The workman accordingly started working. However on 19-11-1992, he was told by the principal JNV, Maseetan that he has been transferred to JNV Mahianwala. When he went there, he was told that his services were no longer required. However the alleged order dated 13-10-1992 was delivered to the workman only in November 1992. He, therefore, demanded his reinstatement.

The management appeared and the case was adjourned for filing of the written statement. However the management absented on 21-11-1995 and ex parte proceedings were taken against it. The workman in his ex parte evidence referred his affidavit Ex. W1 and also produced documents Ex. W2 to Ex. W6. The statement of the workman as WW1 was also recorded. The perusal of affidavit Ex. W1 shows that workman served the management continuously for the period 14-3-1991 to 23-4-1992 when he was relieved. He raised industrial dispute and during conciliation proceedings, the management agreed to take him back on 7-10-1992. He again started working w.e.f. 23-10-1992 and was paid 17 days salary for the month of October 1992. He admitted working up to 17-11-1992 and on 19-11-1992 he was told that he has been transferred to JNV Mahianwala and when he went to Mahianwala to join his duty, he was told that his services were terminated. Ex. W2 is the copy of appointment letter, Ex. W3 is the copy of relieving order dated 30-4-1992, Ex. W4 is the copy of notice served by A. C. Gupta Advocate Jalandhar, Ex. W5 is the copy of demand notice served by the workman and Ex. W6 is the copy of conciliation proceedings. The evidence given by the workman has gone un rebutted. It is evident from the un rebutted evidence that the workman has continuously served the management for a period of more than 240 days and his services has been illegally terminated and he is therefore, entitled to reinstatement with continuity of service. The reference shall therefore stand answered in favour of the workman. The appropriate Govt. be informed suitably in this regard.

S. R. BANSAL, Presiding Officer

Chandigarh,
20-2-96

नई दिल्ली 29 मार्च, 1996

क्र. घा. 1292.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सू-संचार के प्रबंधन के संबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, नं. बम्बई, के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 मार्च, 1996 को प्राप्त हुआ था।

[संख्या एल-40012/135/92 आई घार (डी यू.)]

के बी बी उन्नी, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1292.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, West Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 19-3-96.

[No. L-40012/135/92-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, MUMBAI

Mumbai, the 16th February, 1996

AWARD

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/79 of 1993

Employers in relation to the management of Telecom
Department, Nanded.

AND

Their Workmen.

APPEARANCES :

For the Workmen : Mr. M. B. Anchan, Advocate.

For the Employer : Mr. B. M. Masurkar, Advocate.

The Government of India, Ministry of Labour by its Order No. L-40012/135/92-IR(DU) dated, 20-10-93 had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of Telecom, Nanded in terminating the services of S/Shri Radhakrishnan Apparao Kharat is legal and justified? If not, what relief the workman is entitled to?"

2. Radhakrishnan Apparao Kharat the workman claims that he was appointed as a casual labourer in July, 1985. His services were terminated on December 31, 1986. He averred that he worked for more than 240 days in a year. According to him when his services were terminated he was not given any notice or any compensation as contemplated under section 25F of the Industrial Disputes Act of 1947.

3. The workman averred that his retrenchment without giving any reason and compensation is unjustified, illegal and void. He claims reinstatement in service with continuity and back wages.

4. The management did not file a written statement.

5. The issues that fall for my consideration and my findings thereon are as follows :

| Issues | Findings |
|--|---------------------|
| 1. Whether the action of the management of Telecom Deptt., Nanded in terminating the services of Shri R. A. Kharat is legal and justified? | No. |
| 2. If not, what relief the workman is entitled? | As per final order. |

REASONS

6. Shri Radhakrishnan Apparao Kharat (Exhibit-5) affirmed that he worked for more than 250 days in the 12 months before his termination. The works statement (Exhibit-7/1) clearly goes to show that from January 1986 to December 1986 he worked for 288 days. K. G. Kohaley (Exhibit-9) the witness for the management also admits the same. In other words he is a continuous workman as contemplated under section 25B of the Industrial Disputes Act of 1947.

7. It is not in dispute that no notice was given to the workman before his termination. It is also not in dispute that he had not been paid any compensation in lieu of notice or any other amount by way of retrenchment compensation contemplated under section 25F of the Industrial Disputes Act.

8. Kharat affirmed that his services were terminated from 31-12-86. Thereafter, he was attending the office but he was not given any work. Therefore, he raised an Industrial Dispute. On the other hand it is the case of the management that the worker himself abandoned the services. In fact as there is no written statement the evidence which is lead by the management cannot be relied upon. Even if it is relied, I do not find any merit in it. It is because it is not likely the workman himself will abandon the work even if it is of a casual labour. It is not the case of the management that he got some other job and therefore, he abandoned the work. It is further seen that the management witness was sitting in the office and not on the site. It is therefore, unlikely for him to know whether the worker abandoned the service or he was asked by the officer in charge of that particular work not to come to the duty. I therefore, find the truth in the word of Kharat that his services were terminated by the authorities by a positive act. If Kharat would have abandoned the services the entry would have been made in the muster roll. But there is no such entry in it. The management had not issued any letter to the workman to that effect. The workman affirmed that his juniors were continued in service. I therefore find that there is no substance in the case of the management that as the work was over he was not considered for the post. I therefore, find that there is no substance in the case which is made out by the management regarding the abandonment of the service.

9. Mr. Malbargaonkar (Exhibit-10) the accounts manager who produced two letters dated 30-3-85 and 22-4-87 along with the his affidavit. They relate to casual labour engagements. I do not find that these letters anywhere authorise the management to terminate the services of the worker.

10. Mr. Masurkar the Learned Advocate for the management placed reliance on English Electrical Company of India Ltd., and Industrial Tribunal, Madras and Ors. 1987 1 LLJ 141. That was a case wherein Their Lordships observed that then there were casual workers and no work was provided to them for want of a work then in that case it is not avoidable and will not lead to interference to retrenchment. But the casual worker had right to the work. Here the management had come with a case that the worker abandoned the services and not that there was no work to be given to the worker. I, therefore, find that this authority has no application to the set of facts before me. In another case between Balkrishna Tindal and M/s. Lord Baretton Ltd. and Anr. 1985 1 LLJ 23 Their Lordships observed that if the punishment was found disproportionate to the misconduct the employer can adduce evidence on the fact end and the proceedings before the Tribunal that the worker was gainfully employed and in that case full back wages should not be given. Here there is no such question arose before me as the management had not lead any evidence in respect of employment of the worker. The ratio in this authority had no application. Mr. Masurkar the Learned Advocate for the management also placed reliance on the Managing Director V. Babasaheb Deogondur Patil 1988 LAB IC 288. His Lordship observed that when a workman remained absent from duty without leave for more than three years continuously nor asking for a leave and not agreeing to explain his absence then in that case it must be held that he abandoned the services voluntarily. In that case removal of his name from the roster does not amount to retrenchment. Here that had not happened. It is a case of the worker that he was terminated but he was again attending the office for getting work. But he was not given the work. No doubt he had not given any application nor raised an Industrial Dispute immediately but that does not mean that the action thus taken by the management cannot be termed as retrenchment, as stated in this authority. It can be further seen that there is no law of limitation prohibiting the particular workman to raise an Industrial Dispute.

11. For the abovesaid reasons it could be seen that there is no reason why the word of Kharat has to be disbelieved that he was terminated and not abandoned the services. As this is so he is entitled to reinstatement in service as a casual labour with full back wages and continuity in service as claimed. In the result I pass the following order :

ORDER

1. The action of the management of Telecom, Nanded in terminating the service of Shri Radhakrishnan Apparao Kharat is not legal and justified.

2. The management is directed to reinstate the workman as a casual labour from the date of his termination treating him to be in continuous service.
 3. The management is also directed to pay him full back wages from the date of his termination till his re-statement.
 4. No order as to costs.
- Dated, 16-2-96

S. B. PANSE, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. घा. 1293—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम ई एस के प्रबंधन के संवद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25 मार्च, 1996 को प्राप्त हुआ था।

[संख्या एल 14011 / 7/89 आई आर (जी यू)

के. बी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M.E.S. and their workmen, which was received by the Central Government on 25-3-96.

[No. L-14011/7/89-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI S. R. BANSAL, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. ID 111/90

Sarvshri Des Raj, Shammi Raj, Om Parkash and Som
Nath C/O Shri Vijay Kumar Sharma, 605, 22A
Chandigarh.

Vs.

Chief Engineer, M.E.S., Chandigarh Zone, Sector-7,
Chandigarh. Respondent.

For the workmen : P. S. Sarna.

For the management : Ajay Nara.

AWARD

The Central Government vide order No. L-14011/7/89/IR-(DU) dated 22nd August, 1990, has referred the following dispute to this Tribunal for adjudication:—

"Whether the termination of services of the following workmen from the dates indicated against each, by the management of MES, Chandigarh is justified? If not, to what relief the workmen are entitled to?"

1. Des Raj 29-10-1986
2. Om Parkash 29-10-1986
3. Shammi Raj 16-1-1987
4. Som Nath 20-10-1986

The workmen appeared and submitted their statement of claim demanding therein their reinstatement with continuity of service. The management appeared and contested the claim

and pleaded that none of the workman has completed 240 days of service immediately preceding to the date of termination and therefore, none of the workman is entitled to reinstatement.

On the basis of these pleadings, the parties were asked to produce their evidence. The workmen appeared as WW1, WW2 and WW3 and tendered their affidavits Ex. W1 to W3 respectively. Thereafter workmen expressed their desire to make statements. Their statements have been recorded in which each of them has stated that he has been reinstated and he is not longer interested for anything else and further desire that his case should be decided. Similar are the statements made by the other workmen in this reference.

In view of the statements of the workmen recorded above, it is held that each workman is entitled to reinstatement but without continuity of service and back wages. This reference is thus answered accordingly. Appropriate Government be informed.

Chandigarh.

29-2-1996.

S. R. BANSAL, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. घा. 1294—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूर नकार के प्रबंधन के संवद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-76 को प्राप्त हुआ था।

[संख्या एल 40012 / 134/92 आई आर (जी यू)]

के बी बी उन्नी, डेस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1294.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, North Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 19-3-96.

[No. L-40012/134/92-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/81 of 1993

Employers in relation to the Management of Telecom
Department, Nanded.

AND

Their Workmen.

APPEARANCES:

For the Workmen : Mr. M. B. Anchan, Advocate

For the Management : Mr. B. M. Masurkar, Advocate.

Mumbai, dated 16th February, 1996

AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/134/92-IR(DU) dated 20-10-93, had referred to the following Industrial Dispute for adjudication:

"Whether the action of the management of Telecom, Nanded to terminate the services of Shri Rajendra Badashiv Jogland is legal and justified? If not, what relief the workman is entitled to?"

2. Rajendra Sadashiv Jogdand the casual workman pleaded that the Telecom District Engineer, Nanded appointed him in August, 1985. His services were terminated from 31-12-86. He averred that he worked for more than 240 days in a year. It is submitted that the management without complying the provisions of Section 25F of the Industrial Disputes Act of 1947 retrenched him without giving notice and compensation. The workman submitted that this action of the management is illegal, unjust and improper. He therefore prayed for reinstatement in service with full back wages and continuity.

3. The management resisted the claim by the written statement Exhibit-4. It is averred that the workman raised a dispute before the Assistant Labour Commissioner by his application dated 15th July, 1992. It is reported to the Labour Commissioner that the workman had raised a dispute after a lapse of five years without any justification and under such circumstances his request for reinstatement cannot be considered. It is averred that it is not the management terminated the services of the workman but he himself stopped reporting. It is averred that the workman cannot be regularised as he was not in departmental job on a crucial date i.e. from 31-3-85 to 7-5-85. It is submitted that the case is of abandonment of the service, the provision of retrenchment under the Industrial Disputes Act of 1947 do not apply. It is prayed that the claim of the worker may be rejected. The issues that fall for my consideration and my findings there on are as follows:

| Issues | Findings |
|--|---------------------|
| 1. Whether the action of the mgt. of Telecom Deptt., Nanded in terminating the services of Mr. Jogdand is legal and justified? | No |
| 2. If not, what relief the workman is entitled to? | As per final order. |

REASONS

4. Rajendra Sadashiv Jogdand affirmed that he worked for 352 days in his full career. It is not in dispute that from January, 1986 to December, 1986 he worked for 284 days (Ex-7/2). Jogdand affirmed that after his termination on 31-12-86, he used to attend the office for getting the work but he was not given any work. It is not in dispute that before his termination he was not given any notice nor any compensation as contemplated under section 25F of the Industrial Disputes Act. Kohaley (Exhibit-10) the accounts officer of the management and Malbargaonkar (Exhibit-11) affirmed that the worker abandoned the services. It is not in dispute that these officers sit in the office and never go on the site. There is no report from the officer on site that the worker abandoned the service. There is no entry in the muster roll that the worker stopped coming to the work. Under such circumstances it is difficult to accept the words of these two witnesses that the worker abandoned the services. It is common knowledge that the person holding an employment will not lose it or give up unless he gets a better employment elsewhere. The evidence is tried to be lead to the fact that these casual labourers give up work when the assignment is at a distance from their residence. That might be true but there should be evidence to that fact. There is no evidence to show that the work which was given to Jogdand was away from his place of residence. Therefore he abandoned the work. As that is not so it has to be said that the management terminated the services of the worker by a positive act.

5. As I have already above that the worker is a continuous worker as contemplated under section 25B of the Act when his services are to be terminated, procedure contemplated for retrenchment has to be followed. Admittedly it is not followed. Therefore his termination is void and illegal. As this is so he is entitled to reinstatement in service with full back wages with continuity.

6. Malbargaonkar (Exhibit-11) had produced two letters in his evidence dated 30-3-85 and 22-4-87. They relate to employment of casual labour. These two letters do not affect the case of the worker.

7. Mr. Masurkar the Learned Advocate for the management placed reliance on English Electrical Company of India Ltd., and Industrial Tribunal, Madras and Ors. 1987 I LLJ 141. That was a case wherein Their Lordships observed that when there were casual workers and no work was provided to them for want of a work then in that case it is not avoidable and will not lead to interference to retrenchment. But the casual worker had right to the work. Here the management had come with a case that the worker abandoned the services and not that there was no work to be given to the worker. I therefore, find that this authority has no application to the set of facts before me. In another case between Balkrishna Tindal and M/s. Ford Baretton Ltd., and ANR 1985 I LLJ 23. Their Lordships observed that if the punishment was found disproportionate to the misconduct the employer can adduce evidence on the fact and the proceedings before the Tribunal that the worker was gainfully employed and in that case full back wages should not be given. Here there is no such question aroused before me as the management had not lead any evidence in respect of employment of the worker. The ratio in this authority has no application. Mr. Masurkar the Learned Advocate for the management also place reliance on the Managing Director V. Babasaheb Deogonda Patil 1988 LAB IC 288. His Lordship observed that when a workman remained absent from duty without leave for more than three years continuously nor asking for a leave and not agreeing to explain his absence then in that case it must be held that he abandoned the services voluntarily. In that case removal of his name from the roster does not amount to retrenchment. Here that had not happen. It is a case of the worker that he was terminated but he was again attending the office for getting work. But he was not given the work. No doubt he had not given any application nor raised an Industrial Dispute immediately but that does not mean that the action thus taken by the management cannot be termed as retrenchment as stated in this authority. It can be further seen that there is no law of limitation prohibiting the particular workman to raise an Industrial Dispute. For all these reasons I record my findings on the issues accordingly and pass the following Order:

ORDER

1. The action of the management of Telecom, Nanded in terminating the services of Shri Rajendra Sadashiv Jogdand is not legal and justified.
2. The management is directed to reinstate the worker as a casual labourer and treat him to be in continuous service.
3. The management is directed to pay the worker full back wages from the date of termination till his reinstatement.
4. No order as to costs.

Dated 16-2-1996.

S. B. PANSE, Presiding Officer

नई दिल्ली, 29 मार्च, 1996

का. आ. 1295—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार "इंडिया सेक्टरिटी प्रेम के प्रश्नार्थक के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अन्वय में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम न. 2 वर्म्बई के संवत् को प्रकाशित करनी है जो केन्द्रीय सरकार को 17 मार्च 1996 को प्राप्त हुआ था।

[संख्या एन 16012/4/88 डी II (बी)]

के. वी. बी. उप्पी, टेक्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1295.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2 Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of India Security Press and their workman, which was received by the Central Government on 19-3-96.

[No. L-16012/4/88-D.II(B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Pause, Presiding Officer.

Reference No. CGIT-2/54 of 1989

Employers in relation to the Management of India Security Press, Nasik.

AND

Their Workmen.

APPEARANCES :

For the Workmen : Mr. S. K. Kulkarni, Advocate.

For the Employer : Mr. B. M. Masurkar, Advocate.

Mumbai, dated 4th March, 1996

AWARD

The Government of India, Ministry of Labour by its Order No. L-16012/4/88-D.II(B) dated 19-7-1989 had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of India Security Press, Nasik in relation to its establishment at Nasik in terminating the services of Shri S. P. Barde, a Chowkidar from services w.e.f. 31-12-82 is justified? If not, to what relief the workman is entitled to?"

2. Shankar Pandurang Burde, the worker was appointed as a casual Chowkidar with the Indian Security Press, w.e.f. 18-4-81. He was working at the rate of Rs. 6.25 ps. per day till 31-12-1982. He worked continuously for 623 days. Instead of continuing the worker in the service his services were abruptly terminated w.e.f. 1-1-83.

3. The worker contended that when his services were terminated he was not given notice nor any retrenchment compensation. It is averred that in December's 1982, the worker alongwith his other colleagues were given prescribed attestation forms to be filled up. It is submitted that the worker got the form filled from other person and signed it in English. He is uneducated.

4. The worker pleaded that when he was not allowed to join the duties from 1-1-1983 he made inquiries with the management. He came to know that he was not allowed to join the duties because he was involved in a criminal case under section 380 read with 34 of the Indian Penal Code. It is alleged that he purposefully ignored to mention this fact in the attestation form. He denied that he did so intentionally. It is submitted that he is acquitted in the same case.

5. The worker contended that the official dress which was given to him is with him. That shows that the management still thinks that he is in the permanent establishment of the management. It is averred that he is from scheduled caste and therefore is entitled to get a reinstatement in service with full back wages. It is asserted that without holding a departmental inquiry his services were terminated.

6. The workman pleaded that on 19th June, 1985 he gave a demand notice to the management but it was of no use. Thereafter, he raised an Industrial Dispute before the Asstt. Labour Commissioner on 11-7-85. After due inquiry the

Asstt. Labour Commissioner has send a failure report to the government on 13-10-83. The Government took usual time for passing necessary orders and send the reference to the Tribunal on 11-7-1989.

7. The worker pleaded that there is no justification for his retrenchment or termination. He was appointed in the reserved vacancy earmarked for scheduled tribes candidates and his termination becomes illegal and unlawful ab-initio. He prayed for reinstatement in service with full back wages and continuity.

8. The management resisted the claim by the written statement Exhibit-6. It is averred that the worker was engaged in the press as a casual chowkidar w.e.f. 18-4-81 but his engagement was for not more than 89 days at a time on any occasion, last being from 18-10-82. It is submitted that the India Security Press being a security organisation it cannot employ any worker without prior verification of character and antecedents from the District Magistrate. Barde was however engaged provisionally in anticipation of such character and antecedents verification due to shortage of staff. But on receipt of the report from the District Magistrate, Nasik. It was learned that the worker was facing a trial in criminal case No. 182/78 under section 380 read with 34 of the Indian Penal Code. This material fact was suppressed by the worker when completing the attestation form. He mentioned "No" against Column No. 12(i)(i). It is therefore, his appointment was finally dropped.

9. The management contended that the appointment of the worker was of a casual one and for a stipulated period. It is therefore, communication of any reason for his termination does not arise. It is averred that the appointment of the worker was not in the category of the scheduled caste. It is submitted that there is a wording printed on the top of the form and after filing the form a note is also given to read the wordings and its consequences. It is submitted that the sensitive post of Chowkidar in the security press cannot be given to a person who is charged with an offence of theft and tried for the same. It is submitted that the appointment of the worker was purely casual. Therefore, the question of reserved vacancy does not arise. He had made a false statement in the attestation form. It is denied that the worker is uneducated. For all these reasons it is submitted that the workers prayers may be rejected.

10. My Learned Predecessor framed issues at Exhibit-7. The issues and my findings there on are as follows :

| Issues | Findings |
|---|-------------------|
| 1. Whether the termination of service of the workman Shri S. P. Barde is unjust and bad-in-law? | No. |
| 2. Whether the said workman was appointed in service from the vacancies reserved for the Scheduled Tribes, and if so, whether he is entitled to reinstatement on that ground? | No. |
| 3. Whether the said workman had suppressed the material information regarding himself while completing the attestation form regarding his service with the India Security Press? | Yes. |
| 4. Whether the action of the management of India Security Press, Nasik, in relation to his establishment at Nasik in terminating the services of Shri S. P. Barde, a Chowkidar, from services w.e.f. 31-12-82 is justified? | Yes. |
| 5. If not, to what relief the workman is entitled? | Does not survive. |
| 6. What Award? | As per Order. |

REASONS

11. Shankar Barde (Exhibit-9) examined himself. As against this nobody lead oral evidence on behalf of the management. The parties relied upon the documents which are filed on the record.

12. Shankar Barde (Exhibit-15) affirmed that he was appointed as a casual labour as a Chowkidar with the Indian Security Press w.e.f. 18-4-1981 @ Rs. 6.25 ps. per day. It is also not in dispute that he worked for 623 days in the said post. In other words he worked for more than 240 days in the said post. On its basis it is tried to argue on behalf of the worker that he is in continuous service as contemplated under section 25B of the Industrial Disputes Act of 1947 (hereinafter referred to as an Act). Mr. Masurkar the Learned Advocate for the management argued that the appointment of the worker was for a stipulated time i.e. 89 days at a stretch. His last appointment was on 22-10-82 (Exhibit-D) of the written statement. This is not disputed by Barde. This office order clearly speaks that the appointment is as a casual chowkidar for 89 days w.e.f. 18-10-82. This order is dated 22-10-82. This order also speaks out that the employment is of a purely casual nature for a duration of 89 days only at the end of which the employment stands automatically terminated. It is further observed that if the termination is required earlier then 48 hours notice would be required on either side. It is not in dispute that on 31-12-82 89 days were completed as per this office order. It is also not in dispute that from 1-1-83 the workman was not given any fresh appointment letter or allowed to work.

13. Section 2(oo)(bb) of the Act reads that termination of service of the workman is a result of the non-renewal of the contract of employment between employer and the workman concerned on its expiry or of such a contract being terminated under stipulation in that behalf contended therein. This is a proviso of section 2(oo) which deals with retrenchment. As the case of the management fits in this section it cannot be called a retrenchment. The services of the workman came to an end on the expiry of the contract of non-renewal, of the contract of employment. As this is so there is no question of following any of the provisions contemplated for retrenchment.

14. Barde affirmed that he was educated up to 8th standard. He admits to have filled up the form for the purpose of recruitment in India Security Press, Nasik dated 16-3-1982 (Ex-B) of written statement. This form is in English and also in Hindi. Barde had filled it in English and signed it in English. He had given an explanation that he got the form filled from his friend and only signed it in English.

He therefore, was not aware of the clause 12(I)(i) of the form. I am not inclined to accept this because he was seeking the employment, therefore he was bound to give a proper information to the person who filled the form. It can be further seen that the form is in Hindi also. As he is educated up to 8th standard it was very easy for him to read the form which is in Hindi. There is no difficulty in understanding the language of that form which is in Hindi. It can be further seen that the form refers to the warning at the beginning and informs that the furnishing of a false information or suppression of any factual information in the attestation form would be disqualification and is likely to render the candidate unfit for employment under the Government. It is further mentioned that after completion of the form also if the workman is convicted he has to intimate the office immediately, failing which it will be deemed to be a suppression of factual information. It is also mentioned therein if there is a false information or a suppression of any factual information then the services of that person are liable to be terminated. The management is cautious to give a note with the form mentioning that the applicant should read the warning on the top of the attestation form that clearly goes to show that the management had given sufficient warning to the applicant to read the warning and fill the form correctly. The explanation given by the worker for all these reasons does not appear to be a logical one.

956 GI/96-4.

15. From the evidence on the record it is very clear that when the form was filled on 16-3-82 a criminal case under section 380 read with 34 of the Indian Penal Code was against the workman who suppressed the fact. He was acquitted on 22-2-83. In the cross examination he affirmed that when the form was filled there was no case pending against him under section 380 of the Indian Penal Code. That is again a wrong statement because the form appears to be of 16-3-82. It means that when he was taken as a casual Chowkidar a case was pending but he did not disclose that fact to the management. He continued to do so even after the form was filled. That clearly speaks against him. I do not find any justification for suppressing the factual fact of a criminal case pending against him from the management. This has given the right as mentioned in the form of termination of the services of the workman. It appears that the management had not terminated the services. It chose to not to renew the contract as it did on earlier occasions. I find justification in the action of the management.

16. Mr. Kulkarni the Learned Advocate for the management tried to rely upon the documents which are at Exhibit-23 to 29. These documents are produced by the chief controller officer of Currency Note Press, and not for the India Security Press. Exhibit-23 is a letter of the Chief Administrative Officer from the Government to the General Secretary of the India Security Press, Mazdoor Sangh mentioning that the list of the persons considered for appointment in Currency Note Press passed on the recommendation of the District Collector. Exhibit-24 is the notice of the offices in the matter of the said recommendations. Exhibit-25 is the letter from the Government of India to the General Manager Currency Note Press, dtd. 31-10-88. It relates to verification of a character and antecedents of certain person. It is informed to the manager of the Currency Note Press that he is the appointing authority and he should take the necessary steps in regard to the verification and antecedents of the persons. Exhibit-26 is a note dated 17-8-88 from the Assistant Director to Intelligence Bureau of the Central Government. It is informed that as those workers are not facing any charges of moral turpitude there does not seem any tangible adverse personality trait concerning other candidates, which could debar their employment under the Government of India. Exhibit-27 is the letter of the Collector of Nasik alongwith the statement in respect of the 31 employees to be considered for the appointment in the Currency Note Press. It is dated 27-1-88. After perusal of this statement it reveals that there were different types of charges against these persons under the Indian Penal Code and other case. Except two candidates the District Collector reported that they are fit for appointment in the service. On the basis of this report it is tried to argue by Mr. Kulkarni the Learned Advocate for the worker that even though there was a case against the worker under section 38 read with 34 of the Indian Penal Code and as he is guilty he should be considered for the post. On the other hand it is tried to argue on behalf of the management that those cases are from Currency Note Press and not from India Security Press. They are two different organisations. The action which is taken by one organisation cannot be said to be suitable for another organisation. It is not in dispute that India Security Press and Currency Note Press are two different Organisations. Their working is different, so also the administration. I therefore find substance in the argument of the Learned Advocate for the management that the criteria which are taken into consideration by Currency Note Press cannot be said to be the same criteria for India Security Press. Ex.-28 is a letter from the Spdt. of Police, Nasik to the District Magistrate, Nasik for verification of Character, Antecedents of one Daulat Kashinath Adhav. He was convicted and was sentenced to fine of Rs. 40. But even then he was taken in service by Currency Note Press. There is no document to show that even though the worker was convicted or even though he filled wrong information in the form he was given an employment. As that is so I do not find any merit in the argument of the Learned Advocate for the worker.

17. Mr. Kulkarni, the Learned Advocate for the worker placed reliance on Exhibiting Engineer, Electrical Division V. Prakash Devidas Kalan 1955 MLJ 202. N. L. Mehta Cinema Pvt. Ltd. V. Vijay Shivgad and Ors. 1989 I CLR 416 and Raymond Woods Mill Ltd. V. C. N. Sonawne 1993 II CLR

112. All these cases deal with non-compliance of the provisions of retrenchment. It is held that non-compliance in respect of statutory provisions of retrenchment gives right to the worker for reinstatement in service. Here I have come to the conclusion that the termination of the worker is not a retrenchment. In fact it is not a termination also. It is a case of non renewing the contract. I therefore find that the ratio in these authorities have no application.

18. Mr. Kulkarni, the Learned Advocate for the workman also placed reliance on Chandulal V. Pan American Airlines 1955 (II) CLR 20, Maharsingh V. Narenpura Co-operative Agricultural Society 1987, II CLR 194, Hardeep Singh V. State of Haryana 1987 II CLR 381, Sengara Singh and Ors. V. State of Punjab 184 I LLJ 161 and Prince George V. Govt. of Kerala 1993 I ILJ 686. All these cases are quite different. They deal with holding a departmental inquiry before removal from the service. Here the workman was engaged for a specified period. After completion of that period the contract was not renewed. It is therefore, there was no question of holding a departmental inquiry against him.

19. The workman had taken the contention in the statement of Claim that he is 'Blill' by caste. It is tried to suggest that he was appointed in a vacancy for scheduled caste. But there is no corroborative piece of evidence to that fact. On the other hand it is argued that as he was a casual Chowkidar there was no question of filling the vacancy meant of scheduled caste. Therefore the contention of the workman that he was holding the post meant for Scheduled Caste has no meaning. The Learned Advocate for the worker relied on Motilal Kohli V. State of Rajasthan and Ors. 1993 (II) LLJ 993. That was a case where the vacancy was to be filled up which was meant for Scheduled Caste and their Lordships considered the point whether non-registration with the employment exchange while getting the employment vitiated the appointment. The facts of that case are quite different than the facts before me. It has no application. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

1. The action of the management of India Security Press, Nasik in relation to its establishment at Nasik in terminating the services of Shri S. P. Barde, Chowkidar from service w.e.f. 31-12-1982 is justified.

2. No order as to costs.

Dated, 4-3-96.

S. B. PANSE, Presiding Officer

मई दिल्ली, 29 मार्च, 1996

का. प्रा० —1296—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संसार के प्रबन्धसंस्थ के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निरूपित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-3-96 को प्राप्त हुआ था।

[संख्या एल 40012/137/92 आई प्रार (डी यू)]

के बी बी उन्नी, डैस्क अधिकारी

New Delhi, the 29th March, 1996

S.O. 1296.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom. and their workmen, which was received by the Central Government on 19th August, 1996.

[No. 1-40012/137/92-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer

Reference No. CGIT-2/80 of 1995

Employers in relation to the Management of Telecom. Department, Nanded

AND

Their Workmen.

APPEARANCES :

For the Workmen—Mr. M. B. Anchan, Advocate.

For the Employer—Mr. B. M. Masurkar, Advocate.

Mumbai, dated 16th February, 1996

AWARD

The Government of India, Ministry of Labour by its order No. L-40012/137/92-IR(DU) dated 20th October, 1993 had referred to the following Industrial Dispute for Adjudication :

"Whether the action of the management of Telecom. Nanded in terminating the services of Shri Shivaji Ranoji Adne is legal and justified? If not, what relief the workman is entitled to?"

2. Shri Shivaji Ranoji Adne the casual worker pleaded that he was engaged by Telecom District Engineer, Nanded in April, 1984. His services were terminated in September, 1985. He averred that he was not given any notice nor retrenchment compensation as contemplated under section 25F of the Industrial Disputes Act even though he completed 240 days work in the year. The workman prayed that as the action of the management is violative of the provisions of the Industrial Disputes Act he may be reinstated in service with continuity and back wages.

3. The management resisted the claim by the written statement Exhibit-4. It is averred that the contention that the workman was removed from the service is wrong. It is submitted that the workman himself abandoned the employment. It is asserted that after September 1985 the workman never approached the management for getting the employment. It is submitted that after a lapse of long five years and 11 months the present dispute is raised. It is submitted that the workman has no right of reinstatement with full back wages. It is averred that when a casual worker attends the duty he gets the wages and if he remains absent no wages are paid to him. It is averred that retrenchment is a positive act of the management, which in the present case is absent as the workman himself remained absent from duty. Under such circumstances it is submitted that the claim of the workman may be rejected.

4. The issues that fall for my consideration and my findings thereon are as follows :

| Issues | Findings |
|--|---------------------|
| 1. Whether the action of the management of Telecom, Nanded in terminating the services of the worker is legal and justified? | No. |
| 2. If not, what relief the workman is entitled to? | As per final Order. |

REASONS

5. Shivaji Ranoji Adne (Exhibit-7) the workman affirmed that he worked for more than 240 days in a year and was terminated in September, 1985 without giving notice or compensation. K. G. Kohalev (Exhibit-10) the account officer of the management affirmed that the worker himself abandoned the services and he had not completed 240 days in a year. But it is not in dispute that he joined the service on April, 1984 and was in service till September, 1985. There is no endorsement on the muster roll of the worker that he abandoned the services.

6. It is common knowledge that when a person has an employment he never leaves it unless he gets a better employment. There is no reason for worker to leave the same. There is no evidence to show that there was any reason for leaving that employment. Malbargaonkar (Exhibit-11) tried to suggest that when a particular type of work is over then these casual workers are shifted to another site for doing that job. If that place is away from the place of residence of that particular casual worker then he never attends that work. That might be the truth. But there must be evidence to that effect that the job work which Adne was doing was over and then all that group was shifted to another site which was away from the place of residence of Adne and he therefore abandoned the job. There is no such evidence. Therefore it cannot be accepted.

7. Marbolgaonkar (Exhibit-11) produced a letter dated 30th March, 1985 and a letter dated 22nd April, 1987. These two letters deals with a casual labour engagement. On the basis of these letters the cases which is made out by the workman is not tarnished.

8. Mr. Masurkar the Learned advocate for the management tried to argue that the worker was not in service for 12 months preceding the action. As this is so he cannot be called as continuous worker under section 25B of the Act. On the other hand Mr. Anchan the Learned Advocate for the worker argued that the worker was in service from April, 1984 to August, 1985. Even if it is admitted he did not work in September, 1984. It cannot be said that for the calculation sake he is in service from December, 1984 to August, 1985. According to him the calculation has to be made from September, 1984 to August, 1985 i.e. last 12 months. I find substance in it. It is not the case of the management that in the month of September, 1984 his services were terminated and again he was given the employment in December, 1985.

9. As this is so the calculation of 12 months has to be carried out from September, 1984 to August, 1985. The working days are 254 days. Which complies the requirement of Section 25B of the Industrial Disputes Act.

10. Mr. Masurkar the Learned Advocate for the management placed reliance on 1963 II LLJ 367 between Sur Enamel & Stamping Works v. Their workmen and Rajasthan State Transport v. Babulal 1995 II LLJ 222. Even if the ratio given in these authorities has to be applied to the present case I find that the worker worked for more than 240 days in the 12 calendar months preceding his retrenchment. As there is no compliance of section 25F of the Industrial Disputes Act the termination is void and illegal.

11. Mr. Masurkar the Learned Advocate for the management placed reliance on English Electrical Company of India Ltd., and Industrial Tribunal, Madras and Ors. 1987 I LLJ 141. That was a case wherein Their Lordships observed that when there were casual workers and no work was provided to them for want of a work then in that case it is not avoidable and will not lead to interference to retrenchment. But the casual worker had right to the work. Here the management had come with a case that the worker abandoned the services and not that there was not work to be given to the worker. I, therefore, find that this authority has no application to the set of facts before me. In another case between Balkrishna Tindal and M/s. Lord Baretton Ltd. & Anr. 1985 I LLJ 23 Their Lordships observed that if the punishment was found disproportionate to the misconduct the employer can adduce evidence on the fact and the proceedings before the Tribunal that the worker was gainfully employed and in that case full back wages should not be given. Here there is no such question aroused before me as the management had not lead any evidence in respect of employment of the worker. The ratio in this authority had no application. Mr. Masurkar the Learned Advocate for the management also placed reliance on the Managing Director v. Babasaheb Deogonda Patil 1988 Lab IC 288. His Lordship observed that when a workman remained absent from duty without leave for more than three years continuously more asking for a leave and not agreeing to explain his absence then in that case it must be held that he abandoned the services voluntarily. In that case removal of his name from the roster does not amount to retrenchment. Here that had not happened. It is a case of the worker that he was terminated but he was again attending

the office for getting work. But he was not given the work. No doubt he had not given any application nor raised an Industrial Dispute immediately but that does not mean that the action thus taken by the management cannot be termed as retrenchment, as stated in this authority. It can be further seen that there is no law of limitation prohibiting the particular workman to raise an Industrial Dispute.

12. For the above said reasons I record my findings on the issues accordingly and pass the following order:

ORDER

1. The action of the management of Telecom., Nanded in terminating the services of Shivaji Ranoji Adne is not legal and justified?
2. The management is directed to reinstate the workman as a casual labourer and treat him to be in continuous service.
3. The management is directed to pay him full back wages from the date of his termination till his reinstatement.
4. No order as to costs.

16-2-1996,

S. B. PANSE, Presiding Officer

नई दिल्ली, 2 अप्रैल, 1996

का. अ. -1297- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबंध निपोजकों और उनके कमकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27 मार्च 1996 को प्राप्त हुआ था।

[संख्या 12011/9/94 आई आर (बी -II)]

बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 2nd April, 1996

S.O. 1297.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workmen, which was received by the Central Government on 27th March, 1996.

[No. L-12011/9/94-IR(B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/45 of 1994

Employers in relation to the Management of Indian Overseas Bank

AND

Their Workmen.

APPEARANCES :

For the Workmen—S/Shri Vilas Parab and Nanda Kumar Bhute, Representative.

For the Employer—Shri S. Srinivasan, Representative.

Mumbai, dated, the 8th March, 1996

AWARD

The Government of India, Ministry of Labour by its Order (No. L-12011/9/94-IR (B-II)), dated 14th September, 1994 had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of Indian Overseas Bank Bombay in deviating from the established procedures for effecting request transfers issued on 23rd September, 1992 is justified? If not, what relief the affected workmen are entitled to?"

2. The General Secretary, Indian Overseas Bank Karamchari Sena filed a statement of claim at Exhibit-3'. It is contended that Indian Overseas Bank (hereinafter called as a bank) is a Nationalised Bank. There are two types of transfer policies for clerical (Award Staff). They are (a) Five years transfer policy (at the banks instance); (b) Transfer at workmans' request.

3. The Union pleaded that five years transfer policy was first effected in 1985. That policy gives right to the bank to transfer the workman at the banks instance. In other words it is the prerogative of the bank. It is averred that for the request transfer the procedure is laid down by the bank. The bank has to transfer the employees as per the said procedure when the request for transfer is made by the employee.

4. The Union pleaded that contrary to the policy circulars that zonal and regional transfers are to be effected by the concerned head of that wing, the Central Office had effected mass transfer on 23rd September, 1992. It is pertinent to note that the recognized union issued their circular dated 3rd September, 1992 enclosing a list of the workmen transferred before actual issuance of transfer orders which proves that the over looking has been done by the bank with a mutual understanding with the recognized union.

5. The Union asserted that it raised an Industrial Dispute in the matter before the Asstt. Labour Commissioner by a letter dated 12th October, 1992. The bank appeared in the proceeding and filed their say on 20th February, 1992. Then there was a rejoinder and again a rejoinder by the bank. In that proceeding the union had also submitted the statement mentioning the names of the workmen (attached to the Bombay Branch) and also the names of the worker who have been over looked even though they were eligible for transfer as per the registration seniority, to the Asstt. Labour Commissioner. Ultimately the Asstt. Labour Commissioner recorded a failure of the solution on 18-1-1994.

6. The Union pleaded that looking to the contentions taken before the Asstt. Labour Commissioner by the bank it is necessary to hold that paragraph 535 of the Shastri Award is not applicable to request transfer policy norms, that the discussion which the bank carried out with the recognized union prior to the transfers is an indulgence of "Unfair Labour Practice". That the bank had deviated the workmen's right of transfer at a request and other things. On the basis of the different circulars issued by the bank it is prayed that the bank may be directed to transfer all the workmen over looked or to quash all the transfer orders issued to the clerical staff in the State of Maharashtra violating request transfer norms, to transfer Mr. Arun Kotkar from Regional Office Bombay to Zonal Office, Bombay and to cancel the transfer order of Mr. A. D. Spinoza from the Chembur Branch and debar him from making further transfer request for four years from the date of cancellation in terms of request transfer norms.

7. The bank resisted the claim by the written Statement Exhibit-5'. It is averred that the claim is vague. It is pleaded that the employees who are alleged to be aggrieved are not members in the above union in respect of the cause of action on which the reference has been filed. It is submitted that the employees who have been alleged to be over looked for transfer in violation of the policy were members of the other union which is following to about 88 per cent. Besides that these employees have not made any grievance about the said over looking as the same was done with their consent. It is therefore submitted that the union had no locus standi to raise an Industrial dispute against the bank.

8. The bank pleaded that when an employee was appointed he was given to understand that he is liable to be transferred. The banks transfer policy states that the bank is entitled to transfer an employee at its instance as it is its prerogative. It is submitted that at the time of effecting transfers the bank takes into consideration the request of the employees depending upon its requirements and proper administration and exigencies of work.

9. The bank pleaded that while effecting transfer on 29th September, 1992 the bank had taken into consideration the exigencies of work, the skill, experience of the concerned employees, their suitability and requirements of the bank. It is pleaded that some employees had made requests for transfer to various places as per requests contended in their letters, it was not incumbent upon the bank to abide by the same and bank was not duty bound as per the transfer rules of consideration the cases of transfer over and above its requirements. The requests transfers have been considered by the bank at its discretion, after taking into account various factors.

10. The bank pleaded that there is no justification for granting any of the prayers made by the union. So far as the unions prayers relating to transfer of Mr. Kotakkar from the Regional Office to the Zonal office is infructuous as the said office has already been abolished by the bank. It is submitted that the bank has not violated any transfer requests or transfer policy and had not practised unfair labour practice. It is prayed that under the circumstances the reference may be answered accordingly.

11. The Union filed a rejoinder at Exhibit-6. It is averred that it is not necessary that the employees who are over looked should be members of the union for raising a dispute. It is averred that as the dispute is connected with the request transfer policy, which is affecting to every employee of the bank as such the union has the right to raise an Industrial dispute. The union reiterated the contention taken in the Statement of Claim.

12. The issues that fall for my consideration and my findings thereon are as follows :

| Issues | Findings |
|---|---------------------|
| 1. Whether the action of the management of Indian Overseas Bank, Bombay in deviating from the established procedure for effecting request transfer issued on 23rd September, 1992 is justified? | Action is justified |
| 2. If not, what relief the affected workmen are entitled to? | Does not survive. |

REASONS

13. The Union filed a purshis at Exhibit-9 contending that they do not want to lead any oral evidence. The bank also filed a purshis at Ex-108, stating that they also do not want to lead any oral evidence. Both the parties relied upon the documents on the record and argued the matter.

14. There are three prayers in the Statement of Claim. So far as prayer in respect of Arun Kotakar is concerned it is infructuous. It is because the zonal office where Kotkar wanted transfer has been abolished by the bank. The union had filed documents alongwith Exhibit-7'. The documents which are at serial Nos. Exhibit-7/M to Q deals with correspondence of Arun Kotkar with the office and their replies. In view of the above said situation there is no need to refer to these letters.

15. So far as second prayer of transfer order of Mr. A. D. Spinoza for Chembur Branch is concerned, it is prayed that it should be cancelled and he should be debarred for making further transfer requests for four years from the date of cancellation in terms of request transfer. It appears that initially he was transferred by Breach Candy Branch. Thus the transfer was cancelled and then he was transferred to Chembur Branch.

16. The Union had put up a case before the Asstt. Labour Commissioner in respect of 13 employees whose requests transfers were over looked. In para 15 of the written argument filed by the management (Exhibit-13) it is contended that of the 13 employees mentioned in the Industrial Dispute who have been allegedly over looked have either been cancelled or member transferred. In other words even if the reference is answered in favour of the union the relief which they wanted is already been given to them except Spinoza. I therefore, asked the parties whether they would like to settle the matter instead of getting a decision. They thought over the matter and ultimately informed that the matter may be decided. At this time the representative of the bank submitted that so far as the case of Spinoza he had an eye trouble. Therefore his transfer was made on sympathetical ground. This proposition even though not mentioned in any of the references before the Tribunal was not seriously objected by unions representative. I therefore, find truth in the same.

17. With this back ground it has to be seen whether action of the bank in deviating from established procedure for effecting the request transfer issued on 23rd September, 1992 is justified.

18. It is not in dispute that the bank had issued a circular dated 6th August, 1986 so far as the request transfers are concerned (Exhibit-7/a). By the said circular an application was to be given for a request transfer to the competent authority. He has to register the request chronologically depending upon the date of the receipt of such application and would give effect to the transfer as and when their terms come on the basis of the seniority of registration subject to suitable vacancy arising at a particular branch office to which the workman has requested for transfer. The Regional Manager, Zonal Manager were the competent authorities in respect of zonal and regional transfers. So far as inter zonal transfers are concerned the central office is the competent authority. After receipt of the request transfer from the competent authority in a prescribed form has to intimate the concerned employee. It is argued on behalf of the union that the bank had effected change in the prescribed norms of request transfer which required a notice under section 9A of the Industrial Disputes Act of 1947 as it has got the status of service conditions.

19. The bone of contention of the argument on behalf of the management is the decision of the Canara Bank Corporation Ltd. V. U. Vithal 1964 (II) LLJ 354. Their Lordships have observed "The Management of the Bank is in the best position to judge how to distribute its Manpower and whether a particular transfer can be avoided or not. It is not possible for Industrial Tribunals to have before them all the materials which are relevant for this purpose and even if these could be made available, the tribunals are no means suited for making decision in the matter of this nature. That is why, it would ordinarily be proper for industrial adjudication to accept as correct any submission by the Management of the Bank that an impugned transfer has been made only because it was found unavoidable".

20. It is not in dispute that the service conditions of award staff in the bank are governed by the Shastri Award, Desai Award and various Bi-partied settlements. From the documents on the record and the submissions made before me it is not in dispute that the management had a discussion with the recognized union before effecting the transfer orders in September, 1990.

21. At this juncture it can be seen that the management had produced documents alongwith the Exhibit-8' and the union alongwith Exhibit-7'. Most of the documents which union filed alongwith the Statement of Claim are reproduced alongwith Exhibit-7'. Exhibit-7/8 is the All India Overseas Bank Employee Union Circular dated 3rd September, 1993. From this circular it is very clear that the management had discussion with the recognized union before effecting request transfer in lump sum. Exhibit-7/B to 7/L relates to the proceedings which took place before the Asstt. Labour Commissioner. They are the complaint by the union, reply of the bank and then different rejoinder of different parties.

22. Exhibit-8/4' to 13 are different circulars issued by the management in respect of transfers. After perusal of these different circulars it appears that from 1985 onwards looking to the change in circumstances, different difficulties and after noticing the facts of the earlier circulars some modifications are made in respect of request transfer from time to time. In other words the bank had changed their policy of request transfer from time to time. It is not a rigid policy. It appears that the bank had considered the same taking into consideration different types of aspects which are narrated in these circulars.

23. It is well established principle that it is the prerogative of the management to effect transfer and due to exigencies of business/service and administrative convenience the management has the absolute discretion to decide about the proper deployment of man power. It is in conformity of paragraph 535 of the Shastri Award. It reads "Transfers are rendered necessary by the exigencies of administration. The proper view to take is that transfers and normal incidents of the working of a Bank and they must be left to the discretion of those who guide the policy of the Bank and manage its affairs and para "536" of the Shastri Award stipulates" that so far as the members of subordinate establishment are concerned there should be no transfers ordinarily and if there are any transfers at all they should not be beyond the language area of the person so transferred. In case of workmen not belonging to sub-staff as far as possible there should be no transfer outside the State or the language area in which an employee has been serving except of course with his consent."

24. It is not in dispute that most of the employees who are alleged to be aggrieved are not the members of the above union when the dispute was raised. From the record it speaks that the employees who have been over looked for transfer allegedly in violations of the said policy were members of the recognized union (Ex-8/14). They have not made any grievance to the bank as the same has been done with their consent.

25. Request Transfer Policy is for the convenience of the employees. It cannot be said that when a particular employee requests for a transfer at a particular place and register his name then whenever a vacancy arose the bank is bound to transfer him there. It is because it is the prerogative of the management or of the bank to use its man power at a suitable place. These policies are made with a view that the management should not act arbitrarily. But as far as possible accomodate the employees at per their requests.

26. In Syndicate Bank v. Its Workmen 1966 1 LLJ 440 Their Lordships have confirmed the right of the management to transfer its employees and also observe that the Tribunal should not interfere with such transfers. But it is also observed that if the order of transfer is mala fide or for some ulterior purpose like punishing the employee for trade union activities the Industrial Tribunal should interfere and set aside such order. Looking to the Statement of Claim and the documents on the record it does not reveal that the transfer order which were effected by the management is with a malice by way of punishing the concerned employees.

27. One of the contention of the union is that there was a delegation of power to the regional manager and Zonal manager to effect the requests transfer. That does not mean that the Central office had lost its control in respect of the requests transfers or in other administrative orders. The bank had produced circular showing central office has power to do so. It is argued on behalf of the bank that during September, 1992 the bank had effected transfers of number of employees. While considering the transfer and posting the bank had taken into account the exigencies of work, the skill, experience of the concerned employee, their suitability and requirements of the bank. These transfers were effected for bona fide reason due to the service depending upon their suitability and requirements of the bank and no favouritism was shown in respect of the said transfers. As no mala fides are brought on the record there is no reason why this submissions is not to be accepted.

28. The only question is that whether the bank can deviate from the policy of request transfer. This policy cannot be called as a service condition. This is so because of the

Sastry Award and different decisions of the Supreme Court referred to above. It can be further seen that the request transfers are by way of accommodation and not by way of right.

29. It is tried to argue on behalf of the union that requests transfer formulated the right for its workmen and its settlement in terms of Industrial Disputes Act 1947. So far as this contention is concerned it is not fortified with documents. It can be seen that the circular in respect of request transfer is concerned is issued by the bank on 6th August, 1986. It is in a modification of the earlier circular dated 12th November, 1979. It is nowhere mentioned that this circular is issued in view of the Bi-partite settlements between the union of the bank. I therefore, find that there is no merit in the contention that it is a settlement in terms of Industrial Disputes Act, 1947.

30. It is tried to argue on behalf of the management that none of the effected employees are the members of the union. Even for the sake of argument it is said that they are not members of the union, the fact remain is that the reference is in respect of deviation from the policy of request transfer. As that is so the union can very well raise this dispute even though it is not a recognized union or its members are not affected. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

1. The action of the management of Indian Overseas Bank, Bombay in deviating from the established procedure for effecting request transfer issued on 29th February, 1992 is justified.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 3 अप्रैल, 1996

का. भा. 1298—औद्योगिक विवाद अधिनियम, 1947 (1947 की 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत इंडिया के प्रबंधन के संबन्धित नियोजकों और कर्मचारियों के बीच मतभेद में निश्चित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिनियम, (सं. 2) मुम्बई के पंचपट की प्रकाशित करती है, जो केन्द्रीय सरकार को 27 मार्च 1996 को प्राप्त हुआ था।

[संख्या एल 11012/23/91 आई धारा (बिबि)]
(कोल -1)]

ब्रज मोहन, ईस्क अधिकारी

New Delhi, the 3rd April, 1996

S.O. 1298.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2) Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India and their workmen, which was received by the Central Government on 27-3-96.

[No. L-11012/23/91-IR(Misc)/(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/26 OF 1992

Employers in relation to the management of

AIR INDIA

AND

Their Workmen

APPEARANCES :

For the Workmen : Mr. K. A. Rane, Advocate.

For the Employer : M/s. Bhasin & Co., Advocates.

Mumbai, dated 6th March, 1996

AWARD-PART-I

The Government of India, Ministry of Labour by its order No. L-11012/23/91-IR(Misc) dated 5th May, 1992 had referred to the following Industrial Dispute for adjudication.

"Whether the termination of the services of Shri B. M. Gaonkar, Loader St. No. 7663, ROD/NIPC by the management of Air India is legal and justified? If not, to what relief the workman is entitled to?"

2. B. M. Gaonkar the workman contended that he joined with the Air India in 1979. He was confirmed as a loader from 1-7-1983. It is asserted that his services carrier is clean.

3. The workman contended that on 16-8-88 he was charge-sheeted. He gave a reply to the said charge sheet on 31st August, 1988, denying the charges. It was alleged that on 22-7-88 when he was approaching the gate Mr. Parab, the security guard suspected him carrying unauthorised articles in his pocket. In fact that article was lying on the ground which Parab asked the worker to take which he refused. Therefore he was taken to luggage office where he was threatened by the officers and a confession was got signed from him. It is submitted that he had not committed any act as alleged by the management namely theft of the property entrusted to the Corporation.

4. The workman pleaded that a committee was formed to inquire into the matter. It is asserted that in the said domestic inquiry he was not given an opportunity to represent his case. It is averred that principles of Natural Justice were not followed. It is pleaded that the report of the inquiry officer is perverse. It is asserted that the findings of the inquiry are not just and proper. It is submitted that the punishment awarded is disproportionate to the charges proved.

5. The workman prayed that in such circumstances the punishment of removal which is awarded to him be set aside and he may be reinstated in service with continuity alongwith back wages.

6. The management resisted the claim by the written statement Exhibit-3. It is denied that the worker had a clean record. It is averred that he was remaining absent unauthorisedly. It is therefore a departmental inquiry was conducted against the workman which gave a report against him. It is denied that the Domestic inquiry which was conducted in respect of the chargesheet dated 16-8-88 was against the principles of Natural Justice. It is averred that the workman was given full opportunity to represent his case. It is submitted that the inquiry committee passed its findings on the confessional statement of the worker and other relevant documents.

7. The management pleaded that looking to the gravity and severity of the misconduct committed by the workman the punishment of removal is proportionate to the Act of misconduct. It is averred that the management craves leave to adduce evidence to substantiate the charges levelled against the workman, in the event it is found that the inquiry is vitiated for violations of the principles of natural justice. It is prayed that under such circumstances the claim which is made by the workman may be dismissed.

8. The issues are framed at Exhibit-9. The issue No. 1 is tried as a preliminary issue. The issue and my findings there on is as follows :

Issue

Findings

1. Whether the domestic inquiry held against Mr. Gawkar is against the principles of Natural Justice?

Yes.

REASONS

8. B. M. Gaonkar (Ex-6) the workman affirmed that he gave a reply to the charge-sheet dated 16th August 1988. He denied all the charges and clarified the correct facts before the management. But even then a domestic inquiry was conducted against him. He affirmed that he was not given a fair opportunity to defend his case during the inquiry nor the principles of natural justice were followed.

9. The workman thereafter confirmed that on 22-7-88 at about 7.00 a.m. he was going to collect his uniform from the locker, as he had forgotten to collect it. He was rushing to the bus to attend the duty. At that time Parab the security officer came to him and asked him to collect the article lying at a place pointed out by him. He affirmed that he refused to do so and Parab became annoyed. Thereafter he was taken into the security vehicle and from there to the security office. He affirmed that there he was compelled by the officers to sign a confessional statement. Thereafter the matter was sent to the inquiry committee.

10. At this juncture I may mention it here that this is a unique case where in the management had not produced the proceedings of the inquiry. It is not that the opportunity was not given to them. It appears that they had done so because they are aware that they have committed irregularities in the same. Therefore they have avoided to do so. Exhibit-4/1 is a letter of the workman dated 31-8-1988. In this letter he had mentioned that he was compelled by the management to sign a concession. He further contended that Parab is against him and therefore, he managed the case. In fact his letter supports the case of the worker and not of the management.

11. Exhibit-4/2 is another letter dtd. 16-8-88 addressed by the Dy. Director, ground services to the worker. It is mentioned there in how the incident had taken place and lastly it is mentioned that he is charged for "Theft of the property entrusted to the corporation". That clearly goes to show that this is a major misconduct. From the testimony of the worker it reveals that he was not represented through any representative. It appears that he was also not given an opportunity whether he wants to be represented by a representative or through a legal adviser. Looking to the serious charges against the workman an opportunity should have been given to him. But nothing of that sort had taken place. There is nothing on the record to show that he was given an opportunity to cross-examine the witness.

12. Exhibit-5/3 is an order dtd. 16-5-90 by the Dy. Director, Airport services. After perusal of this order it reveals that he had referred to two departmental inquiries against the workman. One relates to the charge dated 9-8-88 and other relates to the charge dated 16-8-88. So far as first charge is concerned it is of habitual absence without permission and the second charge is concerned it relates to "Theft of Property entrusted to the Corporation". So far as first charge is concerned he agreed with the findings of the inquiry committee on the basis of the documents and the report which is mentioned in the said letter. So far as the other inquiry is concerned he cannot mention the same thing. It can be said that these two paragraphs are stereo typed.

13. The third paragraph in the said order is very material. It reads "I observe that Mr. Gaonkar has committed the two acts of misconduct specified above within a short span of his five years service in the Corporation. In the former case, the Enquiry Committee had to conduct the enquiry ex-parte since, in spite of repeated communications to him, Mr. Gaonkar failed to participate in the proceedings. In the latter case, the gravity of the charge is serious enough to cast aspersions on Mr. Gaonkar's integrity which would warrant the extreme punishment of dismissal from service." In other words it appears that the action which the management had taken in

respect of the workman is on the basis of these two inquiries is incorrect. For all these reasons I record my findings on the issues in the affirmative and pass the following order :

ORDER

The Domestic Inquiry which was held against the workman was against the principles of Natural Justice.

S. B. PANSE, Presiding Officer

Dated : 6-3-1996.

नई दिल्ली, 4 अप्रैल, 1996

का. घा. 1299—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल ग्रेड के प्रबन्धों के संबंध में नियंत्रकों और उनके कामकाजों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2 अप्रैल 1996 को प्राप्त हुआ।

[संख्या एन 41012/56/89 आई आर (बी आई)]

पी. के. माइकल, हेड अधिकारी

New Delhi, the 4th April, 1996

S.O. 1299.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, and their workman, which was received by the Central Government on 2-4-1996.

[No. L-41012/56/89-IR (B-I)]

P. J. MICHAEL, Desk Officer.

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 315 of 1989

In the matter of dispute :

BETWEEN

Divisional Mechanical Engineer
Central Railway Jhansi.

AND

President

Rashtriya Chaturthe Shreni Rail Mazdoor Congress
4 Hirapura Nagra
Jhansi.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-41012/56/89/I.R.D.U., dated 13-12-1989 has referred the following dispute for adjudication to this tribunal.

Whether the action of Senior (DME (P) Central Rly. Jhansi in terminating the services of Sri Rammu S/o Sri Bhagana w.e.f. 1-10-84 is justified? If not, what relief the concerned workman is entitled to?

2. The concerned workman Rammu in his claim statement has alleged that he was engaged as loaderman Khalasi on 29-8-81 with opposite party Central Railway, Jhansi. He continued to work there upto 1-9-84. By oral order dated 1-10-84, the management stopped giving him work which amounts to retrenchment. Before doing so no retrenchment compensation and notice pay was given to him by the opposite party Central Railway.

3. Opposite party has filed reply in which it is alleged that the concerned workman was appointed on 10-3-83. He started absenting himself from 13-9-84. Hence in terms of Rule 732 of Railway Establishment Code Vol. I, it will

be deemed that he had left the job on 24-1-85. In other words his services were never terminated.

4. The concerned workman has filed rejoinder in which the above facts have been denied.

5. In support of his claim the concerned workman has filed his affidavit and further has filed papers. The opposite party has not adduced any oral evidence but has filed some documentary evidence.

6. The only point which needs consideration is as to whether the concerned workman himself had left the job or his services were terminated.

7. The concerned workman in his affidavit has supported his version. He has denied that from 13-9-84 he is absenting himself. From his further cross examination it appears that he was confined to hospital but was not issued any medical certificate. Here it will also be relevant to refer the contents of affidavit dated 18-8-90 in which inter alia he has admitted that he was admitted in railway hospital on 13-9-84. As he was mentally disturbed therefore he continued to get himself medically treated at Agra. On 11-2-87, he regained his health and reported for duty. Still the management had given the wages upto 30-9-84 but wages were not paid from 1-10-84. From this statement it becomes clear that the concerned workman was admitted in hospital on 1-10-84. Hence question of his termination either orally or in writing does not arise.

8. Consequently my finding is that the services of the concerned workman were never terminated from 1-10-84. Hence, there is no question of determining of its proprietary. When the services of the concerned workman is not terminated at all, question of paying retrenchment compensation and notice pay does not arise.

9. Reference is answered accordingly.
Dated : 7-3-1996

Sd./-

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 अप्रैल, 1996

का. मा. —1300—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राप्ती हाथी लक्ष्मी बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2 अप्रैल 1996 को प्राप्त हुआ था।

[संख्या एस 12012/196/90 आई आर (बी आई)]

पी. जे. माइकल, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1300.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Rani Lakshmi Bai Bank and their workman, which was received by the Central Government on 2-4-1996.

[No. L-12012/196/90-IR (B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 285 of 1990

In the matter of dispute :

BETWEEN

Sri Pratap Singh
District Secretary
U.P. Bank Employees Union
195/1, Outside Ditiya Getar Near Thapakbagh
Jhansi.

AND

The Chairman
Rani Laxmibai Kshetriya Gramin Bank
176/11 Kutchehri Chauraha
Head Office, Jhansi.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/196/90-IR (B-3), dated 13-12-1990 has referred the following dispute for adjudication to this Tribunal—

Kya Rani Laxmi Bai Kshetriya Gramin Bank Jhansi ke prabandhako dwara Sri Hiralal Raikwar (Bhut-poorv dainik vetan bhogi karmkar Raksa Shakha (Jhansi) ko dinank 19-4-85 se sewa se mukta kar dena ki karawahi nyayochit hai ? Yadi nahi to sambandhit karmkar kis anutosh ke haqdar hai ?

2. The concerned workman Hiralal Raikwar, in his claim statement has alleged that initially he was appointed as daily rated peon with the opposite party Ranilaxmi Bai Kshetriya Gramin Bank, Jhansi, on 19-11-83. Subsequently he was transferred to Raksa Branch office on 1-1-84 where he worked upto 19-4-85, when his services were illegally terminated by an oral order. This termination order is bad in law because no retrenchment compensation and notice pay was given to him and further a new hand by the name of Om Prakash has been engaged in his place. Hence he has prayed for reinstatement with back wages.

3. The opposite party has filed written statement in which it has been alleged that on 19-4-85 the concerned workman was not sacked. Instead he left the job of his own accord and handed over the cycle which was given to him to perform his duties.

4. In his rejoinder the concerned workman has denied that he had himself left the job.

5. The only point which needs consideration is as to whether the concerned workman himself had left the job on 19-4-85 or orally sacked.

6. In support of his claim the concerned workman had filed his affidavit on 31-3-92. He further filed affidavit and he has also been cross examined. The opposite party has adduced evidence of their personnel officer Saket Kumar. Further they have filed Ext. M-1 to M-11. Whereas the concerned workman has filed annexure 1 to 24 alongwith supplementary affidavit.

7. The concerned workman has specifically sworn that he had not left the job but he was sacked. The witness of the opposite party has in rebuttal stated that the concerned workman had left the job and handed over the cycle. There is annexure 10 to the supplementary affidavit of the concerned workman which shows that on 19-4-85 the concerned workman had returned the cycle which was given to him by the office. Ext. M-8 is report dated 19-4-85 sent by Amrit Bhomik which gives true picture of the incident. It has been alleged that that day the concerned workman had come to office late when an explanation was orally sought. He expressed his annoyance by remarking that so far none had dared to enquire about late coming.

Further in that excitement he also handed over cycle and asked for receipt which was given on that very date. I have no doubt about the contents of this report as it was written at the spur of the moment on that very day and there can be no conclusion for manipulation. Further this fact has been reaffirmed in the report Ext. W-7 sent by this very officer to the President of the Bank on 31-8-85. In my opinion, from the above coupled with the evidence of personnel officer based on file is of much better quality than that of evasive evidence of the concerned workman. Hence, relying upon the above evidence, I come to the conclusion that the concerned workman was not sacked. Instead he had left the job of his own. In such a situation there is no question of compliance of Section 25-F of other provisions of Industrial Disputes Act, 1947.

8. Consequently my award is that in as much as there was no termination of the concerned workman. As such question of its being not justified does not arise. As such he is not entitled for any relief.

9. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 अप्रैल, 1996

का. आ. ---1301-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2 अप्रैल, 1996 को प्राप्त हुआ था।

[संख्या एन-41012/15/90-आई आर(बी 1)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1301.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 2-4-1996.

[No. L-41012/15/90-IR (B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 290 of 1990

In the matter of dispute :

BETWEEN

Surendra Singh
President, Rashtriya Chaturth Shreni Rail Mazdoor Congress,
4, Hirapura Nagra
Jhansi

AND

Divisional Railway Manager
Central Railway Jhansi.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-41012/15/90-IR (DU) dated 18-12-90 has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Central Railway Jhansi in not promoting Sri Laboo Singh w.e.f. 1-8-81 in the scale of Rs. 330-560 as Sr. LDC is justified? If not, what relief the concerned workman is entitled to?

956 GI/96-5.

2. The case of the concerned workman Laboo Singh is that originally he was recruited as Carriage Khalasi, Lateron on 23-7-77, he was appointed as L.D.C. (Lower Division Clerk). On 1-8-81 junior to him was promoted as Senior Clerk after ignoring his claim of the concerned workman for no reason whatsoever. The list of senior clerk was published on 28-11-81 in which his name was missing. As junior to him has been promoted he is entitled for promotion from 1-8-81.

3. The opposite party Central Railway Jhansi has filed reply in which it has been alleged that railway is not an industry. That this Tribunal has no jurisdiction. No averments have been made with regard to factual matters.

4. The concerned workman has filed rejoinder in which nothing new has been alleged.

5. Further alongwith this rejoinder annexure A to annexure D were filed which relate to actual promotion of senior clerk and seniority list.

6. The opposite party has not adduced any oral evidence. Ext. M-1 to M-6 papers have been filed which show that the concerned workman was promoted as Awar Lipik and subsequently he was promoted as senior clerk in the year 1986.

7. In his cross examination Laboo Singh has conceded that for promotion to senior clerk and further for preparation of seniority list a suitability, test was taken in which he had also appeared. A written examination had also taken place. He could not explained as to why his name was not enlisted in the seniority list. It appears to me that the concerned workman was not found suitable and that is why he was not promoted. It is well settled that promotion is a managerial function and any court/tribunal has no right to interfere in the performance of this function except when malafide is alleged and proved. In the instant case it has neither been alleged nor proved. Further from his own cross examination it appears that he was not found suitable in the test. If on this basis he had not been promoted he should have no grievance and further this Tribunal cannot entertain any grievance in this regard in the present circumstances.

8. In view of above my award is that the action of the management Central Railway in not promoting the concerned workman Laboo Singh w.e.f. 1-8-81 as senior clerk was justified and as such he is not entitled for any relief.

9. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 अप्रैल, 1996

का. आ. 1302.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल रेलवे के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-96 को प्राप्त हुआ था।

[संख्या एन-41012/111/89-आई आर-आई (1) बी]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1302.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 2nd April, 1996

[No. L-41012/111/89-IR-BI]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 187 of 1990

In the matter of dispute between :

President,
Rashtriya Chaturth Shrami Mazdoor Congress
2/236 Naimner,
Agra

Versus

The Divisional Railway Manager,
Central Railway,
Jhansi.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its notification No. L-41012/111/89-D-2(B) dated 23rd August, 1990, has referred the following dispute for adjudication to this Tribunal:—

"Whether D.M.E., Carriage and Wagon Shop, Jhansi is justified in reverting Shri Shiv Charan, Highly Skilled Fitter to the post of Khalasi vide his order No. P/2066A/D-2 dated 20th April, 1985 is justified? If not, what relief the workman concerned is entitled to?"

2. Concerned workman Shiv Charan was appointed as Fitter Gr. II. Lateron he was promoted as Highly Skilled Fitter Gr. I and was transferred from Delhi to Mathura by opposite party Central Railway. In that course he was given residential quarter in 1980. Lateron the concerned workman was again promoted and was shifted to Mathura. As his wife was suffering from T.B. he could not vacate his residential quarter inspite of demand of opposite party. Hence by way of punishment the concerned workman was reverted to the post of Khalasi vide order dated 20th April, 1985. It is alleged that the concerned workman could not have been penalised by way of reversion. At the most penal rent could have been charged from him.

3. The opposite party Central Railway has filed reply in which it has been alleged that the opposite party Central Railway is not an industry and that this Tribunal has no jurisdiction. Instead Central Administrative Tribunal has jurisdiction to entertain such matters.

4. The concerned workman in his rejoinder has denied these allegations.

5. In support of his claim the concerned workman has filed his affidavit besides he has also filed papers.

6. Regarding imposition of reversion order, in my opinion in this case consideration of oral evidence is not at all relevant. For disposal of the matter only it is to be seen as to whether the management was justified in imposing this punishment. It appears that management itself was conscious of the wrong done to the concerned workman by passing reversion order as on representation of the concerned workman General Manager vide order dated 10th February, 1992, has considered that this order of reversion by way of punishment was highly excessive as such it was ordered that he be given his original post of Highly Skilled Fitter Gr. I at once. Further the authorised representative of the concerned workman has also invited my attention to the Judgement in Hind appeal No. 309 of 78 dated 14th November, 1980 Kapil Deo versus Union of India in which Hon'ble High Court of Allahabad had held that under the circumstances as exists in the instant case reversion order cannot be passed. Only penal rent could have been claimed. In view of this authority I have no hesitation in holding that the order of reversion of the concerned workman dated 20th April, 1985 was not justified.

7. I do not find any force in the contention of the learned Advocate of the opposite party railway that railway is not an industry, as there are plenty of ruling to the contrary. Further it will be relevant to mention that in the Industrial

Disputes Act, railway has been treated as Public Utility Service. It is all the more good ground for holding the railway as an industry. Further this provision also negatives, the contention of the opposite party that this tribunal has no jurisdiction.

8. In the end my award is that the order of the opposite party dated 20th April, 1985 reverting the concerned workman from the post of Highly Skilled Fitter to the post of Khalasi is not justified. Consequently it is set aside and it will be deemed that this order did not exist. The concerned workman will be entitled for difference of wages of highly skilled fitter Gr. I and Khalasi from the date of his reversion. Concerned workman shall also get Rs. 100 as costs.

9. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 1 अप्रैल, 1996

का. अ. 1303.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में केन्द्रीय सरकार केन्द्रिय मन्त्र के प्रत्यक्षत्व के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार का 2 अप्रैल, 1996 को प्राप्त हुआ था।

[संख्या एल-41012/34/89-आईआई-आर बी]

पी० जे० माईकल, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1303.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 2nd April, 1996.

[No. L-41012/34/89-IR-BI]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 227 of 1989

In the matter of dispute between :

Sri Surendra Singh,
President,
4, Hirapura Nagra,
Jhansi.

AND

Executive Engineer (B&F)
Central Railway,
Manmad

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-41012/34/89-D-2(B) dated 2nd September, 1989, has referred the following dispute for adjudication to this Tribunal—

Whether the action of Executive Engineer (B&F) Central Railway Manmad in terminating the services of Sri Ashok Kumar S/o Bhure Daily Rated Workman at Jhansi w.e.f. 3rd March, 1985 is legal and justified? If not to what relief the workman is entitled?

2. The concerned workman Ashok Kumar in his claim statement has alleged that he was engaged as casual labour on 24th September, 1984, with the opposite party Assistant

Bridge Engineer and continued for more than 120 days. As such he acquired temporary status according to para 2501 of Railway Establishment Manual. He was sent for medical examination for grade A post where he was declared medically unfit. It is alleged that without examining as to whether the concerned workman was medically fit for B-1, he was illegally discharged w.e.f. 3rd March, 1985. It is alleged that the concerned workman was not suitable or nor medically fit for grade A job, his medical examination should have been conducted for lower post like waterman etc., without complying this procedure the discharge is illegal.

3. The opposite party has filed reply in which it has been alleged that Railway is not an industry and that this Tribunal has no jurisdiction. Further since the concerned workman was declared medically unfit he was rightly discharged.

4. In the rejoinder nothing new has been said.

5. I do not find any force in the contention of the opposite party that railway is not an industry. In view of principle laid down by Hon'ble Supreme Court in the celebrated case of Bangalore Water Supply v. S. Rajappa 1978 Lab IC 469 (SC) for determining an institution as an industry, I have no manner of doubt that Railway is an Industry.

6. As regards the ouster of jurisdiction of this Tribunal because of establishment of Central Administrative Tribunal Act, I have no hesitation in over ruling it because of the case of Krishna Prasad Gupta versus Controller of Printing and Stationary 1996 Lab IC (30) S.C.

7. It has been admitted by the concerned workman in his claim statement that he was medically unfit. This fact has also been admitted by the concerned workman in his affidavit. However, the certificate regarding unfitness has not been brought on record from which it could be ascertained as to whether the concerned workman has been declared medically unfit for all job or for a particular job. In my opinion, the railway ought to have filed it to clear myth. Here it will be relevant to refer to letter No. HPB/32543/R/Corr. dated 29th October, 1983 which runs as under :—

The issue of medical examination of casual labour before training them on monthly rates of pay attaining on temporary status has been revised and the following instructions are issued with the approval of CPC.

The casual labour should be sent for medical examination in the highest medical class prescribed for a C IV category in the recruitment unit concerned in which he is working for the time being clearly indicating "for and lower medical class in the memo addressed to the medical A. If the medical authority finds the casual labour fit for a lower medical class only, and a suitable job is available in that medical classification in that particular recruitment Unit, then the casual labour be retained in that job/category, for which he is fit, as long as the vacancy is available and he is in turn for that job/category, otherwise, if no such vacancy is available, he will have to be discharged.

In the absence of medical report of the concerned workman, I am of the view that compliance of the above letter has not been made by the opposite party while discharging the concerned workman. It shows that if a casual labour is not found medically fit for category A job he should be examined for lower post and a suitable job may be made available according to his medical fitness. Still if no vacancy is available, the casual labour has to be discharged. In the instant case nothing of this sort has been done. In its absence, in my opinion, outright discharged was not justified. Hence, I award accordingly. The concerned workman will be entitled for reinstatement. The opposite party is left with the option to recheck the medical report by which the concerned workman has been declared medically unfit. If he has been found medically unfit for all jobs, the opposite party will be at liberty to pass discharge order at once, otherwise the procedure laid down in the above letter should be followed.

8. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 अप्रैल, 1996

का. अ. -1304 औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर प्रदेश के प्रबन्ध के संबंध नियंत्रकों और उनके कर्मचारों के बीच अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-96 को प्राप्त हुआ था।

[संख्या एल 41011/45/92/आई आर बी]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1304.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, and their workman which was received by the Central Government on 2nd April, 1996.

[No. L-41011/45/92-IR-BI]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 100 of 1993

In the matter of dispute between :
Zonal Working President,
Uttar Railway Karamchhari Union,
96/196 Roshan Bajaj Lane,
Ganeshganj,
Lucknow.

AND

Senior Divisional Personal Officer,
Northern Railway,
Hazratganj,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-41011/45/92-I.R.(D.U.) dated 25th November, 1993, has referred the following dispute for adjudication to this Tribunal :—

Kya Senior Divisional Mechanical Engineer, Northern Railway, Lucknow द्वारा श्री Basant Lal Fitter H. S. Grade 1 अधिनित C&W Superintendent Northern Railway Charbagh, Lucknow को उसके kanishth vyaktiyon ki padonnati ki titli se padonnati na dene ki karyavahi तथा दिनांक 15-8-79 से 15-7-83 के खाली skilled grade 2 के arrears का भुगतान ना करने की क्यारवाही उचित अवम वैध है ? यदि नही तो कर्मकार किस अनुतोष का पाने का हकदार है ?

2. In spite of repeated opportunities, have been given to the concerned workman, he neither filed any claim statement nor put in appearance in the Tribunal. It appears that he is not interested in the case.

3. Hence my answer to the reference is in the affirmative and against the concerned workman for want of proof. He has not entitled to any relief.

4. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 अप्रैल, 1996

नई दिल्ली, 4 अप्रैल, 1996

का. भा. 1305.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रबन्धक के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-96 को प्राप्त हुआ था।

[संख्या एल 12012/489/88—आईआरबी1]

पी० जे० माईकल, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1305.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 2nd April, 1996.

[No. L-12012/489/88-IR-B1]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 100 of 1989

In the matter of dispute between :

Sri Raj Kumar Gula,
C/o Sri V. N. Sekhari,
26/104 Birhana Road,
Kanpur.

AND

Regional Manager,
Bank of Baroda,
Chandragupt Hotel,
Civil Lines,
Baroilly.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its notification No. L-12012/489/88-D-2(A) dated 28th April, 1989, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Bank of Baroda in terminating the services of S/Shri Raj Kumar Gupta and Upendra Kumar Pareek and not considering them for further employment while recruiting fresh hands under Sec. 25H of the I.D. Act is justified? If not to what relief are the concerned workmen entitled?

2. It is unnecessary to give full facts of the case as on 22nd February, 1996 that is the date of management evidence, authorised representative for the concerned workman moved an application alleging that the concerned workman has been given employment by the bank and as such he is not interested to prosecute the case. It is further requested in the application that an award be passed in terms of the application.

3. In view of above reference is answered in affirmative.

B. K. SRIVASTAVA, Presiding Officer

का. भा. 1036.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गन कैरिज फैक्ट्री के प्रबन्धक के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-8-96 को प्राप्त हुआ था।

[संख्या एल 11012/117/91/आईआर (डी यू.)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1306.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Gun Carriage Factory and their workman, which was received by the Central Government on 26th March, 1996.

[No. L-14012/117/91-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LS(R)(6)/1993

BETWEEN

Shri Premdal C/o Shri B. Da'Silva, Advocate, 18, South Civil Lines, Jabalpur (MP)-482001.

AND

The General Manager, Gun Carriage Factory
Jabalpur (MP)-482001.

PRESIDED IN—By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri R. C. Srivastava, Advocate.

For Management—Shri B. Da'Silva, Advocate.

INDUSTRY : Gun Factory. DISTRICT : Jabalpur (MP).

AWARD

Dated, March 8, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-14012/117/91-IR(DU) dated 7th January, 1993, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Prem Lal, Ex. T. No. 4118/IE w.c.f. 3rd November, 1987 is justified? If not, what relief he is entitled to?”

2. This reference was received on 13th January, 1993. Thereafter enumerable opportunities were given to the workman to file the statement of claim, but he did not do so till 6th March, 1996 on which date management prayed to close the case as the workman is not filing the statement of claim. In the circumstances, it appears that the workman is not interested in pursuing the case. As such, no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 4 अप्रैल, 1996

का. आ. 1307.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्स्टीट्यूट फ़िशरीज प्रोजेक्ट के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोचिन के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26 मार्च, 1996 को प्राप्त हुआ था।

[सं. एल 12011/17/91आई आर (टी यू)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 4th April, 1996

S.O. 1307.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Integrated Fisheries Project and their workman, which was received by the Central Government on 26th March, 1996.

[No. L-42011/17 91-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(Labour Court, Ernakulam)

(Tuesday, the 13th day of February, 1996)

PRESENT:

Shri Varghese T. Abraham, B.A., LL.M., Presiding Officer.

Industrial Dispute No. 31 of 1995(C)

BETWEEN

The Director, Integrated Fisheries Project, Ernakulam, P.B. No. 1801, Cochin-682016.

AND

The General Secretary, Indo-Norwegian Project Employees' Association, Ernakulam, Cochin-682016 (Kerala State).

REPRESENTATIONS:

Sri. V. V. Sidharthan,
Standing Government Counsel,
Chittoor Road, Cochi-16. ...—For Management.Sri. T. C. Govindaswamy,
Advocate, 'Vadakel',
Mahakavi G. Road, Kochi-11. ... For Union.

AWARD

The Government of India as per order No. I-42011/17/94-IR(DU) dated 27th October, 1995 referred the following industrial dispute for adjudication:

"Whether the action of the management of Integrated Fisheries Project, Cochin-16 is justified in imposing wage deduction for the period from 17th March, 1994 to 19th March, 1994 on the following 5 workers viz. 1. Shri A. V. Pushkaran, EDC I, 2. Shri Subramanian, Bosum certified, 3. Sri P. J. Antony, Mate, 4. Shri K. Sarangadharan, UCB and 5. Shri P. A. Mohandas, J.DH. If not, to what relief the workmen are entitled to?"

2. Both entered. No dispute subsists (vide statement of union recorded):

3. In the result, the reference is answered holding that no industrial dispute is pending to be adjudicated.

Pronounced in open court on this the 13th day of February, 1996.

ERNAKULAM

VARGHESE T. ABRAHAM, Presiding Officer

नई दिल्ली, 10 अप्रैल, 1996

का. आ. 1308.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार के बम्बई पोर्ट ट्रस्ट बम्बई के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3 अप्रैल, 1996 को प्राप्त हुआ था।

[सं. एल 31012/17/92आई आर (विषय)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 10th April, 1996

S.O. 1308.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bombay Port Trust and their workmen, which was received by the Central Government on 3rd April, 1996.

[No. L-31012/17/92-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/67 of 1993

Employers in relation to the Management of Bombay Port Trust

AND

Their Workmen.

APPEARANCES:

For the workmen—Shri Jayprakash Sawant, Representative.

For the Management—Shri C. D. Nargolkar, Advocate.

Mumbai, dated 12th March, 1996

AWARD—PART-I

The Government of India, Ministry of Labour by its order No. L-31012/17/92-IR (Misc.) dated 6th September, 1993 had referred to the following dispute for adjudication:

"Whether the action of the management of Bombay Port Trust, Bombay in dismissing Shri A. S. Manjrekar, Dock Watchman w.e.f. 8th January, 1990 from service is just, proper and legal? If not, to what relief is the workmen entitled to?"

2. The workman A. S. Manjrekar, Security guard of Bombay Port Trust filed a Statement of Claim at Exhibit-2. He contended that on the basis of the inquiry officers report he was dismissed by the management of the Bombay Port Trust w.e.f. 8th January, 1990. He pleaded that the findings of the Inquiry Officers are perverse, illogical and unjustified. It is asserted that the disciplinary authority as well as the appellate authority did not apply its mind while passing the

order but they did so mechanically. It is averred that the punishment which is imposed on the workman is disproportionate to the gravity of the alleged misconduct. It is contended that the action of the management in dismissing the workman is against the principles of Natural Justice. He therefore, prayed that he may be reinstated in service with full back wage alongwith consequential benefits.

3. The management resisted the claim by the written statement Exhibit-3'. It is averred that Mr. Manjrekar the workman joined as a security guard in the security department of the Bombay Port Trust. On 6th July, 1988 he was on duty at N/O Shed Princess Dock. He was arrested by the police for being in unauthorised possession of vegetable oil tin of one gallon capacity. It was an imported article carrying the mark refined oil, United States of America.

4. The workman was placed under suspension in accordance with regulation 7(3) of the Bombay Port Trust Employees (CCA rules) Regulations 1976 by the Dy. Chairmans order dated 19th July, 1989. He was issued a chargesheet dated 17th March, 1989 for having committed misconduct as per the regulations 22(2)(b) and Rule 22(1)(b) of the non-schedule staff and for exhibiting lack of absolute integrity and devotion to duty which was a violation of Regulation 3(1) of the Bombay Port Trust Employees Conduct Regulations, 1976.

5. The Management contended that the worker gave a reply on 13th April, 1989. It was not satisfactory. The domestic inquiry which commenced on 24th May, 1989 was concluded on 10th August, 1989. Meanwhile the workman was acquitted on 10th February, 1989. It is averred that in view of the pending appeal of the workman to the Dy. Chairman dated 30th July, 1988 his order of suspension was revoked and he was allowed to join services w.e.f. 23rd March, 1989.

6. The management pleaded that Mr. Daithankar the inquiry officer submitted his report and findings wherein he found the workman guilty of the first charge and not guilty of the second charge. Thereafter the worker was issued a show cause notice dated 5th October, 1989 wherein a penalty of dismissal was proposed and he was called upon to give his say in the matter. The worker gave a reply on 8th November, 1989. As the reply was not satisfactory the management awarded a penalty of dismissal to him by the Dy. Chairman's order dated 4th January, 1990.

7. The employer pleaded that the appeal which was preferred by the workman was dismissed by the government on 7th December, 1990. It is averred that the entire action on the part of the employer in the facts and circumstances of the case is just, legal and proper.

8. The management denied that the principles of Natural Justice were not followed in the departmental inquiry. It is denied that the punishment imposed is disproportionate to the misconduct. It is pleaded that if the tribunal comes to the conclusion that the inquiry which was held against the workman was not fair, legal and proper, an opportunity may be given to the management to prove the charges. For all these reasons it is prayed that the claim of the workman may be dismissed.

9. The issues are framed at Exhibit-7'. Issue No. 1 has to be treated as a preliminary issue. The issues are my findings there on is as follows:

ISSUES

FINDINGS

- | | |
|---|----|
| 1. Whether the domestic inquiry which was held against the workman was against the principles of Natural Justice? | No |
|---|----|

REASONS

10. It is not in dispute that the workman was a watchman with the Bombay Port Trust. He was in the security organisation. On 7th March, 1989 he was given a chargesheet Ex-5/1'. It is alleged that on 6th July, 1989 at about 5.50 p.m. Crime Detection Branch of Yellow Gate Police Station found the workman to be in unauthorised possession of re-

finer vegetable oil tin of one gallon capacity of a foreign make near open space, Opposite Fire Station, Princess Dock where he was on duty. It was found that he committed an Act listed in Regulation 22(2)(b) of the B.P.T. Rules and Regulations for non-scheduled staff. As such he has thus failed to maintain absolute integrity and devotion to duty and violated regulations 3(1) of the B.P.T. Employees (conduct) Regulations 1976.

11. The second charge against the workman was that while giving his Statement before the Investigating Officer on 23rd August, 1988 he falsely stated that he had chased a vagrant carrying an oil tin who dropped the same and ran away. Thereafter four-five police constables in mufti who were on their rounds came and asked him to take action on his own etc. and this was witnessed by one Shri Kolambkar, Mazdoor. Thus the worker committed an act listed in Regulation 22(1)(F) of the Bombay Port Trust Rules and Regulations for non-scheduled staff and exhibited lack of absolute integrity and devotion to duty in violation of Regulation 3(1) of the Bombay Port Trust employees (Conduct) Regulations 1976.

12. The worker by his reply (Ex-5/2) denied the charges.

13. It is not in dispute that the workman was acquitted in a criminal case which was filed by the police for the said offence. The judgement in Criminal case No. 309/P of 1988 which is at Ex-6/8'.

14. The workman was first suspended. After he was acquitted in the criminal case he was reinstated in service. D. V. Daithankar started the inquiry on 24th May, 1989 and concluded the same on 10th August, 1989. He found the workman guilty under charge No. 1 and not guilty under charge No. 2. He submitted his report to the competent authority. Thereafter the management proposed the punishment of dismissal and called upon the worker to give his say. As his reply was not found satisfactory he was dismissed from service by an order dated 4th January, 1990.

15. Jayprakash Sawant (Exhibit-4) who represented the worker before the Tribunal produced a stay and reviewed the application justifying the reinstatement in service of the workman at Ex-4/1'. In the cross examination he admitted that the workman was represented by his colleague in the domestic inquiry. He also held him in preferring an appeal. He admits that the workman was given an opportunity to cross examine the management witness. He alleged that one Kolambkar was the witness of the workman, but his evidence was not recorded on behalf of the workman as he was threatened by the management. I do not find any corroborative piece of evidence to this statement. Therefore it cannot be said that the domestic inquiry which was held against the workman was against the principles of Natural Justice. It is not in dispute that the workman received the proposed punishment which he replied. In other words from the testimony of Jayprakash nothing had come on the record to suggest that the domestic inquiry which was held against the workman was against the Principles of Natural Justice.

16. Abhay Manjrekar (Exhibit-6) the worker affirmed that the inquiry was defective, the findings of the inquiry were perverse, illegal and the punishment which was imposed was disproportionate to the misdeeds. It can be said that from his examination-in-chief, there is no specific allegation showing how the domestic inquiry which was held against the workman can be said to be against the Principles of Natural Justice. In the cross-examination he admits to have received the charge sheet and taking part in the domestic inquiry. He also admits to have cross examined five management witnesses. He affirmed that he was given full opportunity in the inquiry. That itself goes to show that there was nothing wrong in the Domestic Inquiry.

17. Manjrekar affirmed that the inquiry officer did not appreciate the evidence on record and came to the wrong conclusion. This statement relates to the perversity of the findings by the inquiry officer. That is to be seen while justification of the action by the management. So far as the present issue is concerned this statement does not help the workman.

18. In the written argument it is tried to argue on behalf of the workman that the charge itself was a defective one. It is therefore the whole inquiry is void. Mr. Sawant the Learned Representative of the workman argued that the Bombay Port Trust Rules and Regulations for non-scheduled staff are not applicable to the worker as the category of the workman is covered under the scheduled staff of Bombay Port Trust. I do not find any merit in this. Section 73 of the Major Port Trust Act of 1963 which is applicable to the Bombay Port Trust Act refers to staff of the Scheduled and Port staff. The differences of scheduled and non-scheduled staff is no more B.P.T. employees conduct Regulations 1976 is applicable to the worker. Rule 3 which is said to be violated by the worker states to maintain absolute integrity and devotion to duty. This is no doubt general in nature. But when there is a violation of this rule in the earlier parts of the charges the management had quoted what are the instances of irregularities. These instances are quoted on the basis of the Rules mentioned in clause 22 of Rules and Regulations for non-scheduled staff. It can be seen that clause 3 was amended in 1990 and different cases are narrated to show the mis-conducts. Prior to that the mis-conduct innumeration in Clause 22 of the Rules and Regulations for non-scheduled staff were taken in to consideration.

18. When a particular employee is charged what is to be seen is, he should know what are the grievances against him which the management treats as mis-conduct. It is not that a general statement is made in the chargesheet informing the workman that he has not maintained absolute integrity and devotion to duty, but specific instances are given for arriving to that conclusion. Under such circumstance I am not inclined to accept that the charges are vague and the inquiry is vitiated.

20. The Learned Representative of the worker placed reliance on Union of India v. J. Nariman 1979 Lab IC 792. That was a case wherein His Lordship discussed the point that constituted a mis-conduct. Whether lack of efficiency, failure to attain higher status of administrative ability etc. constituted a mis-conduct. For deciding the preliminary issue this authority has no relevancy.

21. Mr. Sawant the Learned Representative for the workman placed reliance on A. L. Kalara v. Project and Equipment Corporation of India Ltd., 1984 Lab IC 965. That was a case where in their Lordships observed alleged mis-conduct not falling under any of the misconduct specifically innumeration in Rules, removal from service not proper. The facts of that case are quiet different from the facts before me. It has to be seen whether there are specific misconduct and whether they are informed to the workman. Here in this case in the chargesheet the worker is specifically informed what are the misconducts. Under such circumstances the ratio in the above said authority had no application.

22. There is yet another ruling namely Jaywant Bhaskar Sawant v. Board of Trustees of the Port of Bombay 1994 Lab IC 1949. In that case the delinquent was acquitted by the Criminal Court. His Lordship observed that continuance of departmental inquiry is not barred. However departmental authorities are duty bound to attach considerable weightage to the verdict of criminal court so far as deciding the preliminary issue. This authority has no application.

23. For the above said reasons I record my findings on the issue accordingly and pass the following order :

ORDER

1. The Domestic Inquiry which was held against the workman was as per the Principles of Natural Justice.

Dated,
12-3-1996.

S. B. PANSE, Presiding Officer

तारीख दिवसी 11 अप्रैल, 1996

का. भा. 1309—औद्योगिक विवाद अधिनियम, 1947 (1947 का 17) को धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड इंडिय इन्श्योरन्स क. लि. के प्रबंधन के सबूत विरोधकों और उनके कर्मचारियों के बीच, अनुबंध में विवाद औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिनियम, कलकत्ता के पंचपट्ट में प्रकाशित करती है, जो केन्द्रीय सरकार को 3 अप्रैल 1996 को प्राप्त हुआ था।

[संख्या 17012/23/89-आई आर (बी-II)]

ब्राज मोहन डेस्क अधिकारी

New Delhi, the 11th April, 1996

S.O. 1309.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United India Insurance Co. Ltd. and their workmen, which was received by the Central Government on 3-4-1996

[No. L-17012(23)/89-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 35 of 1989

PARTIES :

Employers in relation to the management of United India Insurance Co. Limited, Calcutta.

AND

Their Workmen

PRESENT :

Mr. Justice . C. Jagadeb Roy, Presiding Officer.

APPEARANCES :

On behalf of Management.—Mr. D. K. Ghosh, Advocate with Mr. P. Pathak, Advocate.

On behalf of Workmen.—Mr. S. Sengupta, Advocate.

STATE : West Bengal.

INDUSTRY : Insurance.

AWARD

By Order No. L-17012(23)/89-IR(B)-I, dated 17th October, 1989 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of United India Insurance Co. Ltd., Calcutta in retiring Shri Sudhir Kumar Das w.e.f. 31-8-1988 instead of 31-8-1992 is legal and justified and if not to what relief the workman concerned is entitled?"

2. A petition is filed on 30-11-1995 under the signature of the Advocate for the Union after serving a copy on the learned counsel for the management stating therein that the workman (Sudhir Kumar Das) does not want to proceed further with the case in view of the decision of the Government of India introducing pension to General Insurance Employees, a copy of whose letter is also annexed with the petition. Accordingly the Union who had taken up the case

of the workman has prayed that the case of the workman be withdrawn and necessary order be passed.

3. Since the workman has given up his case and the Union does not want to proceed further in the reference case, a "No Dispute" Award is passed.

Dated, Calcutta,

The 11th March 1996

K. C. JAGDEB ROY, Presiding Officer

नई दिल्ली, 11 अप्रैल, 1996

का. आ. 1310—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) को प्रांग 17 के अनुसरण में, केन्द्रीय सरकार एवं आई. सी. आफ इंडिया के प्रबंधकों के संयुक्त नियोजकों और उनके कर्मचारियों के बीच औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिनियम, अहमदाबाद के पंचायत को प्रकाशित करती है, केन्द्रीय सरकार को 9 अप्रैल, 1996 को प्राप्त हुआ था।

[संख्या 17011/5/94 आई आर (बी-II)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 11th April, 1996

S.O. 1310.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 9-4-96.

[No. L-17011/5/94-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SHRI H. D. PANDYA, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, AHMEDABAD

Complaint (ITC) No. 1 of 1995

In

Reference (ITC) No. 22 of 1994

Shri V. C. Desai,
Panjara Pole, Opp. Cotton Chwl
Relief Road, Ahmedabad.

Complainant.

V/s.

The Sr. Divisional Manager,
Life Insurance Corporation of India,
Divl. Office: 'Jeevan Prakash',
7th Floor, Tilak Road,
Ahmedabad.

.. Opponent.

In the matter of a complaint u/s. 33-A of the I.D. Act, 1947.

APPEARANCES:

Shri Trivedi, learned Advocate for the Complainant.

Shri M. J. Sheth, learned Advocate for the Opponent.

AWARD

The above Opponent has given application Ex. 6 in this complaint in which he prayed to hear the contention which he raised in para-2 of the written statement as preliminary issue. As per the order passed below this application, I ordered to hear the above point as preliminary issue.

2. The facts which have given rise to this complaint may briefly be stated as under:—That the Complainant, Shri Desai

as serving as a Liftman in Ahmedabad Divisional Office, L.I.C. of India, Ahmedabad since last about 25 years. According to the Complainant, he is a Working Committee Member of Class IV Employees' Union. Reference No. 5/94 is pending before the Industrial Tribunal. The Opponent has posted Shri Desai as a Liftman at Bombay Mutual Bldg. It is the case of Shri Desai that the Opponent disregarding the above fact, has issued an order on 21-8-95 directing him to work as Peon whenever the lift is not working. The employer cannot change the service conditions of the concerned employee when a dispute is raised in the Industrial Tribunal. He is the office bearer of the Union and so in order to harass him the Opponent has issued memo dated 15-9-95 informing him that he has to work as Peon when lift is not working. It is also stated in memo that the lift was out of order from 21-8-95 to 12-9-95 and that why his salary for this period should not be deducted. He was present throughout the above period and so a detailed reply was given by the Union dated 18-9-95. Thereafter the Management deducted Rs. 2283.91 wrongfully from his salary for the month of October, 1995. This action of the Opponent is unjust and illegal. Thereafter the Opponent has issued charge sheet on 15-1-95 in order to victimise him for no fault of his. Thereafter the Opponent has issued another memo on 20-11-95. The Opponent cannot deduct Rs. 890 from his salary for the month of November, 1995. This action of the Opponent is also unjust and illegal. The Opponent has changed his service conditions during the pendency of the above reference. This act of the Opponent is also illegal and unjust. The Complainant, therefore, filed the complaint in which he prayed to declare that the order dated 21-8-95 of the Opponent is illegal and invalid and it is in contravention of Section 33 of the I.D. Act and that the Opponent be directed to repay Rs. 3173.31 which they have wrongfully deducted from his salary. The Complainant has also claimed other reliefs.

3. This complaint is filed u/s. 33-A of the I.D. Act.

4. The Opponent has filed the written statement at Ex. 4. In this written statement, they denied the contentions which are raised by the Complainant in his complaint. They, inter alia, contended that they have not contravened any of the provisions of Section 33 of the I.D. Act during the pendency of Ref. (ITC) No. 22 of 1994 and so the complaint which is filed u/s. 33-A of the I.D. Act is not maintainable. The above contention is raised in para-2 of the written statement. As stated earlier, the contentions which are raised in para-2 of the written statement have been ordered to hear as preliminary issues and so it is not necessary to reproduce other contentions raised by the Opponent in their written statement.

5. The parties have not lead any oral evidence.

6. I heard Shri M. J. Sheth, learned Advocate for the Opponent and Shri Trivedi, learned Advocate for the Complainant.

7. Now the important question which arise for consideration is whether the Opponent has contravened any of the provisions contained in Section 33 of the I.D. Act and if so, whether the complaint u/s. 33A is maintainable or not? In my opinion, for the reasons stated hereunder the Opponent has not contravened any of the provisions of Section 33 of the I.D. Act and so the complaint of the complainant is not maintainable.

8. Now most of the facts are not in dispute before me. They may briefly be stated as under:—The Complainant is serving as a Liftman in the Division Office of the LIC of India, Ahmedabad. He is posted at Bombay Mutual Bldg. in Ahmedabad. On 21-8-95 the Opponent issued an order that whenever the lift is not working then the Liftman should work as Peon. This order is produced at Annexure-A with complaint. The Liftman working in Bombay Mutual Bldg. is covered by this order. On 15-9-95 the Opponent issued a memo to the Complainant in which they alleged that lift of the Bombay Mutual Bldg. was out of order from 21-8-95 to 12-9-95 and during this period he i.e. the Complainant neither reported to the Dy. Secretary, Sub-audit Centre nor he was found in the building during this period. It is also stated in the memo that no wages are payable for the above

period on the principle of "No work No pay". The explanation about it was also called from the Complainant. There are also other allegations made against the Complainant in this memo. However, we are not concerned about it at present. The copy of this memo is produced at Ex. 8. The Gujarathi version of this memo is at Ex. 9. The Complainant wrote a letter Ex. 10 to the Opponent on 18-9-95. Thereafter the Management deducted Rs. 2283.31 and Rs. 890 from the salary of the Complainant for the month of October, 1995 and November, 1995 respectively. The Opponent also issued a charge sheet to the Complainant on 16-11-95. The copy of this charge sheet dated 16-11-95 is at Ex. 14. Thereafter the Opponent gave another memo to the Complainant. Reference (ITC) No. 22 of 94 is pending in this Tribunal. The Union has raised various demands in this reference.

5. Now as stated earlier, the Complainant has filed this complaint u/s. 33-A of the I.D. Act, 1947. Section 33-A, inter alia, provides that where an employer contravenes the provisions of Section 33 during the pendency of proceedings before a Labour Court, Tribunal, etc., any employee aggrieved by such contravention, may make a complaint in writing to the Labour Court, Tribunal, etc. as provided in this section. Provision of Section-33 which is material for our purpose reads as under :—

"33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or any proceeding before (an arbitrator or) a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute.

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute (or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman),—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman :

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer."

(3) Notwithstanding anything contained.....

(4) In every establishment, the number.....

(5) Where an employer makes an application....."

6. Now the Union of Life Insurance Corporation of India has raised four demands in reference (ITC) No. 22 of 1994. Schedule of these demands is produced at Ex. 18. If we look to these four demands, then one demand pertains to uniform, second pertains to wage cut effected by the Opponent and repayment of wage cut, third relates to memorandums dated 24-7-93, 7-8-93 and 27-7-93 in respect of agitation programme and the last one relates to monetary loss to JIC and recovering this monetary loss from the retirement benefits of Sr. Divisional Manager.

956 GI/96—6.

7. Now in this complaint, the Complainant has challenged the order dated 21-8-95 which relates to directing some of the Liftmen to work as Peon when the lifts are closed and deductions made from his salary and charge sheet given to him on 16-1-95. He has prayed to quash the above order and the charge sheet. Thus, the industrial dispute which the Complainant raised in his complaint has no connection whatsoever with regard to the industrial dispute which he has raised in the above reference. Now the next question we have to consider is as to whether because of the above order and charge sheet and deductions from his salary, there is any change in his conditions of service. Now as stated earlier, the Opponent has issued an order on 21-8-95 by which he informed the liftmen of four buildings mentioned in the above order to work as peon when the lift is not working. In my opinion, there is no change in conditions of service of the Complainant by this order. Now the Complainant is serving as a Liftman in Bombay Mutual Building of the Opponent. He has covered by the above order. However, he has not been placed permanently as Peon by the above order. He has to work as Peon only when the lift is not working. Now it appears that the Complainant does not want to do any work when the lift is not working and he wants to sit idle when the lift is not working, but he cannot be permitted to sit idle. Therefore, merely because the Opponent issued an order by which he informed the above Liftman to work as Peon when the lift is not working from that itself it cannot be said that there is a change in the conditions of service of the above liftmen including the Complainant. Therefore, there is no merit in the contention of the Complainant that because of the order Ex. 7, his conditions of service are changed.

8. The Complainant has also tried to show that deductions are made from his salary for the month of October, 1995 and November, 1995. So according to him, this also amounts to change in conditions of his service. Now it is true that the Opponent has made deductions to the tune of Rs. 2283.31 and Rs. 890 from the salary of October, 1995 and November, 1995 respectively. However, it is evident from the record that the Complainant did not carry out the instructions contained in the order Ex. 7 and that he did not report to the Dy. Secretary Sub-audit Centre during the period from 21-8-95 to 12-9-95 when the lift was out of order and he was also not found in the building during this period. Therefore, a show cause notice Ex. 8 was issued to him informing him as to why his salary for the above period should not be deducted from his salary. Thereafter the Opponent deducted the above amount from the salary of the Complainant. Now this also cannot be said to be any change in conditions of service of the Complainant. If the Complainant thinks that this is an illegal deduction from his wages then he can obtain other remedies. However, for this, he cannot file the complaint alleging that this is an illegal deduction from his salary and that it amounts to change in conditions of service. Therefore, there is no merits in the above contentions of the Complainant and so it cannot be accepted.

9. Now the Opponent has issued a charge sheet on 16-11-95 to the Complainant. This charge sheet is at Annexure-H to the complainant. The Opponent has alleged in the charge sheet that the Complainant has committed some misconduct. Now by issuing charge sheet to the employee by the employer, it cannot be said that the employer is changing the conditions of service of the employee. If the employer finds that any of its employee has committed any misconduct then he can hold the inquiry against him and at the time of holding the inquiry by charge sheet has to be issued to the employee. When such procedure is followed then it cannot be said that the employer has changed the conditions of service of contentions of the complainant.

10. Thus, from the evidence as above that the Opponent has not changed any conditions of the service of the Complainant during the pendency of the above reference. Thus, the Opponent has not contravened the provisions of Section 33 of the Act. Therefore, the complaint of the Complainant under the provisions of sub-section 33-A of the I.D. Act is not maintainable. In view of above, the Opponent has established that they have not changed any of the conditions of

service of the Complainant during the pendency of above reference and that they have not contravened the provisions of Section 33 of the I.D. Act. Therefore, this complaint of the Complainant is not maintainable. In view of above as the complaint of the Complainant is not maintainable, it has maintainable, it has to be dismissed. I, therefore, pass the following order :—

ORDER

The complaint of the Complainant is hereby dismissed. No order as to costs.

Ahmedabad, 29th February, 1996.
Sd./I Illegible, Secy.

H. D. PANDYA, Presiding Officer

नई दिल्ली, 11 अप्रैल, 1996

का. भा. 1311—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत पेट्रोलियम कॉर्पोरेशन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधि-करण, 2 मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 9 अप्रैल, 96 को प्राप्त हुआ था।

[सं. 30012/44/92 आई आर (विधि)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 11th April, 1996

S.O. 1311.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation and their workmen, which was received by the Central Government on 9-4-1996.

[No. L-30012/44/92-IR(Misc.)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2. MUMBAI

Reference No. CGIT-2/50 of 1993

PRESENT :

Shri S. B. Panse, Presiding Officer.

Employers in relation to the Management of Bharat Petroleum Corporation.

AND

Their Workmen.

APPPEARANCES :

For the Workmen : Shri M. B. Anchan, Advocate.

For the Management : S/Shri P. K. Rele, R. N. Shah,
A. M. Pota, Advocates.

Mumbai, dated 15th March, 1996

AWARD

The Government of India, Ministry of Labour by its Order No. L-30012/44/92-IR(Misc.), dated 4-6-1993 had referred to the following Dispute for adjudication :

(i) "Whether the Petroleum Employees' Union, Bombay has locus-standi to raise the dispute and negotia"

with management of Bharat Petroleum Corporation Ltd. in respect of their members working in Southern Region? If yes, then what relief Petroleum Employees' Union, Bombay is entitled to?"

(ii) "Whether the action of the management in not finalising the Promotion Policy is justified? If not, to what relief the workmen are entitled?"

(iii) "Whether the action of the management in not finalising the issue of rationalisation of working hours is justified? If not, to what relief the workmen are entitled?"

2. The General Secretary for Petroleum Employees Union, Bombay (hereinafter called as PEU) filed a statement of Claim at Ex-2. It is contended that it represents workmen of all regions of Marketing Division of Bharat Petroleum Corporation Ltd. (hereinafter called as B.P.C.L.). The PEU served a strike Notice dated 9-11-1992 on the management of BPCL for an All India Strike in support of demands contained in the Annexure of Demand letter dated 9-11-92. The management did not concede to the said demands. It is therefore the workmen in dispute went on strike from 14th to 17th December, 1992. Prior to proceeding on strike, the Regional Labour Commissioner(C) intervened in the dispute and called the parties for a solution on 4-12-92. Thereafter in the year 1991 a long term settlement was signed which covered all the workmen of BPCL irrespective of where they are working. The management of BPCL always called for negotiations and demands of the workers relating to Western Region consisting of Maharashtra, Goa, Part of Karnataka, M.P., Part of Gujarat and Eastern Region consisting of West Bengal, Orissa and North Eastern India. However, the management refused to discuss the demands put forth by PEU on All India basis and therefore the dispute came to be referred to the Tribunal.

3. The Union contended that it represents the workman employed in BPCL. It is therefore, it has a locus-standi to negotiate and discuss their demands. It is averred that the provisions of the Industrial Disputes Act of 1947, do not restrict a particular union to raise a dispute. Any union can raise a dispute which is required to be adjudicated upon by the Tribunal. It is also not necessary that the entire body of the workmen of the industry or majority of them should represent the case. It is averred that the submissions made out by the management before the Regional Labour Commissioner that the issue does not relate to the Western Region is without any merit. It is averred that the wage scale, conditions of service are the same for all the workers of the PEU as a signatory of long term settlements. It is therefore, it can raise the present dispute. It is averred that the interest of the workmen of the Western Region of BPCL and Southern Region are not different and therefore the cause espoused by the workman of the Western Region for the demands relating to the workmen of the Southern Region covers within the definition of Industrial Dispute. For all these reasons it is submitted that the PEU has all rights to negotiate and discuss the grievances pertaining to the demands of the workmen of the Southern Region.

4. The Union pleaded that the working hours of the workmen employed in different regions/locations are not uniform even though the classification/nature of work in different locations/ regions is the same. PEU has been therefore consistently demanding reduction of and rationalisation of working hours of the workmen located All Over India. This was discussed during the course of negotiations and clause 19 of the Long Term Settlement is about the same. It is averred that on its basis the management wrote a letter dated 25-6-91 and submitted the proposal for rationalisation of working hours. It is pleaded that after perusal of the said proposal it can be seen that on the pretext of rationalisation what the management wants to do is to increase the working hours in all cadres. It is averred that infact the management should have considered the working hours at the minimum number of working hours in a week already applicable to some region. The union therefore send a letter dated 22-2-92 where in it gave a justification for the demands for rationalisation. It is averred that such wage scales and conditions of Service

are similar. It is unjustified to continue with the existing discrimination of additional working hours of some of the workmen. This demand should have been considered by the management long back.

5. So far as the claim in respect of finalising the promotion policy is concerned the parties have arrived at a settlement. It is at Exhibit-12'. It is submitted that the award may be passed in terms of the said settlement.

6. The union prayed that for all these reasons it may be declared that the PEU is allowed to represent the workman of the Southern Region for negotiation of the demand and grievances of the workman of that region. That the relief of working hours to existing minimum working hours of workmen irrespective of any region/location etc. may be granted with other reliefs.

7. The management resisted the claim by the written statement Exhibit-4. It is averred that the reference is on premature failure of the conciliation report filed by Regional Labour Commissioner, Central Bombay. It does not survive because the Dy. Chief Labour Commissioner subsequently continued conciliation proceedings. That the conciliation was settled on signing of the Memorandum of Understanding by the contending parties. That one of the issue framed for reference is still pending conciliation by the Regional Labour Commissioner, Bangalore.

8. The management pleaded that the Corporation has several establishments in the nature of small and large storage points of petroleum products located all over the country. The coordination of these activities is carried out through four Regional Offices located at Bombay, Calcutta, Delhi and Madras. Up till 1986 the Corporation had been having Regional settlements with the union operating within each region with a clear understanding that the sphere of activities of the union are restricted to their region only. However with a view to bring about uniformity in the wage parameter the corporation had entered into All India Longterm settlement with all the 15 unions in marketing on 22-8-86 and 25-3-91. While signing these settlements it had been specifically made clear to the unions that their sphere of activity would be recognised by it as being confined to their respective regions so as to avoid fostering inter union rivalry. The union had also reciprocated this and signed these two settlements. PEU, Bombay is one of the signatory.

9. It is also the moot question of Law as to whether the union registered under one state authority can espouse the cause of the workmen of another state/Region, it not sanctioned by practice.

10. The management pleaded that the understanding reached between the management of PEU on the demands pertaining to Southern Region is that these demands would be dealt with by respective union operating in the Southern Region. The discussions would be held with the concerned parties at regional level before the Regional Labour Commissioner or higher authorities. It is averred that the demands relate to issues of All India nature arising out of Long Term Settlement and their finalisation would involve discussion and negotiation with fourteen other unions operating in the marketing. It is averred that PEU is only one union and discussing issues of All India Nature with only one of the unions would create problems. It is pleaded that the issues pertaining to rationalisation of working hours were settled by an understanding reached with the unions which is not in the minutes of the meeting held on 17-12-92. Therefore it does not constitute an Industrial Dispute. For all these reasons it is prayed that the reference may be rejected.

11. The Union filed a rejoinder at Exhibit-7'. It is averred that the reference is not based on the premature failure of the conciliation report, filed by the Regional Labour Commissioner. It is averred that there was no continuations/restarting of conciliation proceedings by the Dy. Chief Labour Commissioner(C), Bombay in connection with the Strike notice dated 9-11-92. It is averred that in the meeting which was called by the Dy. Chief Labour Commissioner the failure or conciliation report sent by the Regional Labour Commissioner

was not set aside. The Union did not participate in the proceeding but subsequently signed it due to the pressure from the Dy. Chief Labour Commissioner on 15-12-92. It is therefore submitted that the reference cannot be said to be premature. It is averred that the proceedings before the Dy. Chief Labour Commissioner relates to the Kandla issue and not to the demand notice of the PEU dated 9-11-92. It reiterated the contentions which it had already taken in the Statement of Claim.

12. The issues that fall for my consideration and my findings thereon are as follows :

- | | |
|---|---|
| 1. Whether the PEU, Bombay has Locus-standi to raise a dispute and negotiate with management of BPCL in respect of their members working in Southern Region ? | No. |
| 2. If yes, then what relief the Union is entitled to ? | Does not survive. |
| 3. Whether the action of the mgt. in not finalising the promotion policy is justified ? | Does not survive in view of settlement. |
| 4. Whether the action of the management in not finalising the issue of rationalisation of working hours is justified ? | Yes. |
| 5. If not, what relief the workman are entitled ? | Does not survive. |

REASONS

13. When the reference was pending the parties filed a prushis (Ex-12) contending that they have arrived out of Court settlement in respect of item No. 2. i.e. regarding promotion policy. They also prayed that an award may be passed in terms of the settlement. The Memorandum of Settlement (on Promotion Policy) between BPCL and its workmen dated 7-4-95 is produced alongwith the said prushis. As the parties have settled the dispute amicably an award has to be passed in terms of that settlement in regard to promotion policy.

14. In the written statement the management had taken the contention that the reference is premature. It appears from the written arguments that they had given up the said contention. I therefore do not find it necessary to discuss it.

15. The PEU is registered under the provisions of Trade Union Act of 1926 representing the workmen employed in BPCL (marketing division) All Over India. It represents all the four regions. It is pleaded that the letter dated 24-11-92 is the proof in respect of the same. It is not in dispute that there are five unions in the Western Region. It is argued on behalf of the union that in view of the Industrial Disputes Act of 1947 any union can raise a dispute and such disputes are required to be adjudicated upon by the tribunal. It is argued that there is no provision in the Act requiring that the Industrial Dispute should be raised by the entire body of the workmen or majority of them. If the Industrial Dispute effects or likely to effect rights and interests of the workmen the Industrial Law envisages of the purpose of maintaining industrial peace and harmony, such industrial dispute should be examined and adjudicated upon by the Industrial Tribunal. It is therefore submitted that the contention of the management that the union does not represent the Southern Region has not merit. It is further argued that the interest of the Western Region and the Southern Region are not different and therefore the case espoused by the union relating to demands of the Southern Region is justified. It can do so. To support this contention the General Secretary of the Union had affirmed it.

16. It is not in dispute that there are about 8000 workers working with BPCL all over India. There are fifteen unions in different regions. There are two unions in Southern Region, three unions in Eastern Region and five unions each in Western and Southern Region.

17. All these fifteen union submitted their Charter of demand in terms of the Terms and Conditions of employment which are applicable to all workmen and negotiation for Long Term Settlements for which three representative of each union are allowed to participate and such Long Term Settlements is signed by all fifteen unions separately. It is submitted that PEU, Bombay, Calcutta and Madras has the same name. Calcutta is affiliated or considered as the branch of PEU, Bombay. But they did not respond to the strike notice given by PEU, Bombay. Therefore, it has to be said that the rights of the members at different regions are different. All India issues which are governed by long term settlements are jointly negotiated by all the union and their members in a particular region or not. The regional issues are discussed jointly by the unions dealt in the region and settlement of these regional issues which obviously binding on the workmen working in the region.

18. Santanu Sarkar (Exhibit-14), Industrial Manager of the BPCL affirmed that BPCL was formed when Burmah Shell Co., was nationalised in 1976. From its inception it used to operate a regional basis with each region working independently.

19. It is argued on behalf of the management that if for an individual grievance for such a small number of members in the Southern Region PEU, Bombay representatives are allowed to raise dispute and or to discuss that the local management or authority they may then claim such a facility for their members of the Northern and Eastern Region and even other 14 union may follow suit and claim such a facility. The end result would be that union leaders would always be on the move of such a facility may lead to inter union rivalry which will not be advisable, to harmonise Industrial relations. I find substance in it.

20. From the minutes of the meeting held on 17-12-92 between the management of the PEU on the demands pertaining to the Southern Region is that these demands would be dealt with by respective unions operating in the Southern Region. The discussions of these issues would be held with the concerned parties at the regional level.

21. It is tried to argue on behalf of the union that the witness for the management in the question whether the union from the Southern Region was not allowed to represent the case at All India negotiation. He answered that the unions were given of a choice of members to attend. There were three nominees from each union and from the 15 unions in the corporation. He further stated that the present union was represented by three nominees. It is pertinent to note that this union is representing the Western Region. The dispute which the union wants to discuss/settle is of a National Level. Each region has its different problems. Naturally the union from that region is said to be the best union to represent the case.

22. It could be seen that the present union is registered under the state authority. As such it is not correct that the said union can represent the workmen in any state/region, which the present union wants to do in the present matter. For all these reasons it appears that the PEU, Bombay has no locus-standi to raise a dispute and negotiate in respect of their members working in the Southern Region.

23. Satish Kumar Nair (Ex-11) the General Secretary of the Union affirmed that the BPCL operates all over India. It is therefore, the working hours of all the workmen employed in different regions/locations should be uniform as their other service conditions are uniform. They are working under one employer having similar classification, nature of work in different locations and regions. Therefore, it is unjustified to have different working hours to similar class of workers. The union therefore was demanding rationalisation of working hours of the workmen located all over India.

24. It is not in dispute that the said issue was discussed during the course of negotiation/charter of demand and finally the Long Term Settlement was arrived at. Clause 18 of the Long Term Settlement reads as follows :

"Unions demand that the existing level of working hours per week should be reduced at different locations. The management contended that reduction of working hours has major implications in terms of productivity,

manning, etc. Therefore, it was agreed that as a first step, working hours at different locations should be rationalised. Management would formulate a proposal in this regard and circulate the same to all union within three months of the date of signing of the settlement. After receiving concurrence of the unions, management would implement the proposals for rationalisation of working hours. After rationalisation of working hours as above, the parties would keep reviewing the working hours and would be willing to discuss the question of reduction of working hours within a time-frame."

25. Shantanu Sarkar (Exhibit-14) the witness for the management affirmed that there is need for differentiation in working hours of a similar category of the workman working in the commercial establishments of the organisation vis-a-vis the Industrial Establishments. They have to work as per the requirements but within the statutory limits of 48 hours. But really speaking this contention has no meaning in view of clause 18 of the long term settlement. The management then issued a letter dated 25-6-91 (Ex. 2/8). By that letter management informed to the union the proposal of rationalisation of working hours. The Secretary affirmed that after perusal of that proposal it was noticed that on the pretext of rationalisation what the management wanted to do is to increase the working hours for which he had given a reply on 28-2-92. The action of the management of signing of the proposal, receiving of the reply is in accordance with the settlements. The management was to collect the proposals from different regions in respect of rationalisation of the working hours and then to discuss it thoroughly. The management was pressing the matter. Under such circumstances it cannot be said that the management was not finalising the matter. But on the contrary its actions are justified and at that particular time its non-finalisation was justified.

26. By the said reply they suggested their norm of working hours. In fact Clause 18 of the Long Term Settlement clearly states how the dispute in respect of rationalisation of working hours has to be settled. It is not in dispute that in the recent settlement signed on April, 1995 the need for differentiation in working hours of similar categories of workmen working in Commercial and Industrial Establishments is accepted by the union and that to compensate such discretion in working hours the workmen are paid certain allowances. What is affirmed by Sarkar to this effect was not challenged by the union. It can be seen further that except PEU, Bombay no other union has raised a dispute. It is argued on behalf of the management in the case of Associated Cement Staff Union V. Associated Cement Co., 1964 (1) I.L.J. SC 12. Their Lordships observed that it is not the function of the Industrial Adjudication to fix working hours with an eye to enable the workmen to earn over time wages.

27. The witness for the union in categorical term affirmed that the rationalisation the means minimising of the working hours. This interpretation cannot be accepted at all. In other words the way the union wants to discuss the matter does not appear to be a logical one.

28. It is tried to argue on behalf of the management that the specialisation/regularisation of working hours is purely managements function. These working hours are within the statutory limits of the factories Act 1948 and Shops and Establishments Act. It is further argued that this being the managerial function the Tribunal should not interfere in it. I accept it.

29. There is another circumstance in the matter which has to be taken into consideration namely after the matter was referred in April, 1985 there was a long term settlement between the workman and the management revising the terms and conditions of employment of the workmen and also introduction of compensation for the differentiation of working hours as the demand of PEU, Bombay for rationalisation of working hours merits no consideration. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

1. The PEU, Bombay has no locus standi to raise a dispute and negotiate with management of BPCL in respect of their members working at Southern Region.

2. An award is passed in terms of Memorandum of Settlement on promotion policy between BPCL and its workmen as per Exhibit-12'.
3. The action of the management in not finalising the issue of rationalisation of working hours is justified
4. No order as to costs.

Dated, 15-3-96.

S. B. PANSE, Presiding Officer

नई दिल्ली, 11 अप्रैल, 1996

का. भा. 1312.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में केन्द्रीय सरकार वी. सी. एन के प्रबंधक के संयुक्त नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधि-करण, 2, घनबाव के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9 अप्रैल, 1996 को प्राप्त हुआ था।

[संख्या 20012/275/92-आई आर (सी-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 11th April, 1996

S.O. 1312.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 9-4-96.

[No. L-20012/275/92 IR(C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 14 OF 1993

PARTIES :

Employers in relation to the management of Ena Colliery of M/s. B.C.C. Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri S. P. Singh, General Secretary, Khan Mazdoor Congress.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 4th April, 1996

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(275)/92-I.R. (Coal-I), dated, the 15th February, 1993.

SCHEDULE

"Whether the action of the management of Ena Colliery under Kustore Area No. VIII of M/s. BCCL P.O. Kustore, Distt. Dhanbad in dismissing Shri Jitender Bhar from the service of BCCL and not paying the subsistence allowance is justified ? If not, to what relief the workman is entitled ?"

2. In order to meet the aforesaid reference as per rules parties filed their respective W. S. Initially the workman submitted its W.S. and the facts narrated therein in nutshell is that one Ram Bhar used to work as Mining Sirdar of East Bhuggatdih colliery and he was declared unfit by the Apex Medical Board of the management of BCCL to perform his normal duties.

3. Accordingly as per rules of NCWA-II one dependant in such case was entitled to get employment after such declaration by the Apex Medical Board. Pursuant to the rule mentioned therein and decision of the Apex Medical Board of the management the concerned Sri Ram Bhar applied for employment of his dependant of Jitender Bhar and the said prayer was accorded by the management and the said Jitender Bhar was given job of Miner/loader under Office Order No. FNA/PD/90(R-4)36 dt. 7-1-91 on the strength of such order Shri Jitender Bhar joined in his service and worked there to the fullest satisfaction of the management.

4. All on a sudden he was served with a chargesheet dt. 17-7-91 upon the allegation that he joined the job on furnishing the false information. The concerned workman replied to that on 22-7-91. But being not satisfied with such reply a domestic enquiry took place and in that domestic enquiry the charges of furnishing false information to get job as dependant of Ram Bhar was declared to be established by the Enquiry Officer practically relying upon the report of S. P. Balia (U.P.) ignoring other facts revealed in the course of enquiry and ultimately he was dismissed from 14-5-92.

5. As nothing was solved on the repeated request the matter was brought to the notice of the ALC(C) under the provision of I.D. Act, 1947 who also failed to reconcile the matter and ultimately referred the dispute to the Ministry of Labour and upon such dispute the present reference has been arises.

6. The workman prays for relief that the action of the management in dismissing him is unjustified with a prayer of reinstatement with full back wages and proper relief through the sponsoring union Khas Mazdoor Congress of the concerned workman.

7. The management in his W.S.-cum-rejoinder have admitted that Shri Ram Bhar was declared unfit by the medical board and this concerned workman was given with job as his dependant son. But when it came to the notice of the management that he got the job on furnishing false statement he was issued with a chargesheet pursuant to the report of the S. P. Balia and then a domestic enquiry was held in proper manner and there was a recommendation from the Enquiry Officer to the effect that the charge levelled against the concerned workman has been established and pursuant to the said report the management dismissed him from the service relying upon the report of the Enquiry Officer who held the enquiry in proper manner and observing the legal formalities in this regard considering his finding based on materials and legal proof.

8. The main contention of the management in their W.S. is that the concerned workman was the adopted son of Shri Ram Bhar and he should have declared as such and on enquiry it was so revealed and upon such false particulars he is not entitled to get relief as prayed for.

9. The workman in this rejoinder have denied the facts stated by the management in different paras without furnishing any other particulars besides the facts already stated in his W.S. and ultimately it has been stated that even if he be adopted son of late Ram Bhar law does not prohibit him to get the job as it was so given.

10. At the very outset I refer the order No. 20 dt. 21-9-95 where on consent of both the parties the domestic enquiry was held to be fair and proper and the documents filed by the parties were accepted being formal proof dispensed with. Therefore, I am to see whether the decision of dismissal by the management is justified with reference to the power given to this Tribunal under Section 11A of the I.D. Act 1947.

11. In the instant reference some facts are appearing to be admitted. It is not disputed that Ram Bhar was the Mining Sirdar of the concerned management working in East Bhuggatdih colliery and he was found medically unfit by the Apex Medical Board set up by the management. It is also not disputed that the concerned workman at present was given with the job as per provision of NCWA-II as dependant son of said Ram Bhar.

12. It is also not disputed that the enquiry was held upon the chargesheet that he submitted false particulars on stating him to be the son of Ram Bhar though he was actually adopted son as per report of S. P. Balia.

13. In this context we have to consider the provisions laid down in NCWA as regards employment of dependant of the workers who is permanently disabled as per NCWA-II.

14. In this premises let me go through the record of the domestic enquiry wherever it appears that both the parties examined their respective witnesses. From the evidence of the management as it transpires in course of enquiry it is denied that the concerned workman is the son of Ram Bhar but it is accepted both from the oral evidence and the report of the S. P. Balia that he is adopted son of Ram Bhar. In course of enquiry it has revealed that Ram Bhar and Feku Bhar are two brothers and this concerned workman is alleged to be the son of Feku Bhar who was adopted by Ram Bhar. No doubt the oral evidence may be wiped out as it is oath versus oath. Of course, one witness whose name is Bira Raj Bhar who told that the concerned workman was the son of the brother of Ram Bhar. But it is admitted that he was adopted by Ram Bhar.

15. We have to assess the matter from the angle of social status of the parties social system of the locality and the trend of expression of the locality to which the persons belong. This is not unnatural that when one boy is taken or accepted as adopted son nobody calls him as Dattak Putra or adopted son but broadly he is considered to be the son of a person who takes adopted. Of course in the eye of law and in the legal arena the said question comes in and that requires consideration. But generally in the locality he is known as a son it we do not probe into the matter for searching out the root or details of the fact. In this premises let me refer the certificate of the D. M. dt. 20-12-91 where I find that this concerned workman has been declared to be the son of Ram Bhar. There is medical certificate where also the concerned workman Jitender Raj Bhar has been described as the son of Ram Raj Bhar. There is also transfer certificate of Marwari High School, Jharia dt. 3-12-91 where also I find that Jitender Bhar is the son of Ram Bhar. From the service excerpts I find that Jitender has been declared as the son of Ram Bhar. From the transfer certificate of the year 1988 it appears that Hirendra Bhar is the son of Ram Bhar. The name of Hirendra also appear in the service excerpt as referred to. Besides that there is evidence of persons of local area who has supported the fact that Jitender is the son of Ram Bhar.

16. So all these oral and documentary evidence out of which are of long back Jitender was considered to be son of Ram Bhar.

17. I have carefully perused the report of the Enquiry Officer who has practically relied upon on one of the witnesses examined by the concerned workman and the report of the S. P. Balia. It is needless to say that the said Police Personnel has not been examined. So the workman was deprived of from cross-examining his evidence and thereby it loses its evidenciary value as it should have been if the concerned work-

man had opportunity to cross-examine the Police personnel who held such enquiry.

18. Over and above the certificate of the D.M. which has not been challenged by any of the party shows that Jitender is the son of Ram Bhar.

19. Therefore, if we weigh the evidence then the value of the evidence bent down towards the claim of the concerned workman.

20. Therefore, weighing the evidence on record I am inclined to accept either by birth or on adoption this Jitender was considered and know as son of Ram Bhar and everybody was in know of the fact without probing into the matter whether he is the son by birth or on adoption.

21. Be that as it may even for the sake of argument it is considered that he is an adopted son for the purpose of employment of the dependant of a workman who is found medically unfit there is a provision of giving appointment to the adopted son and in that case when Ram Bhar gave his option to the management for the appointment of this Jitender as his dependant son then it is no matter whether he is the son by birth or by adoption.

22. Already I have observed that considering the status of the parties and social structure of the locality where adopted son is generally called as the son, the mistake if any declaring him to be the adopted son is not intentional but it was for the reasons that he was considered to be the son though he was adopted son even if it is accepted for the present moment and in that case there is no reason to give him such punishment of dismissal from the service.

23. In view of the finding made above I accept Jitender Bhar to be the son or adopted son whatever it may be and the dependant as declared by Ram Bhar himself when no other claimant as dependant is coming in. In that case the finding of the Enquiry Officer i.e. furnishing of false information of attracting the mischief in violation of the standing order leading to his dismissal is absolutely without foundation.

24. In that case I hold that the action of the management is not justified in dismissing the concerned workman Jitender Bhar and the management is directed to reinstate the concerned workman in the post in which he was working but as some anomaly was there and the police verification report was not in support of the concerned workman in to the management cannot be held responsible for taking such decision as it relied upon the report of the person like S.P. and therefore no back wages is given to him but he will be entitled to get increment in the meantime considering that he was in service with all other benefits in his service to which he is entitled to considering his service to be continuous one for the purpose of promotion and other benefits etc. The management is directed to implement this award within one month from the date of publication. In default law will take its own course.

This is my Award.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 11 अप्रैल, 1996

का. मा. 1313.—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट श्रीद्योगिक विवाद में श्रीद्योगिक अधिकरण, सदास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4 अप्रैल, 1996 को प्राप्त हुआ था।

[गं 12012/532/96 ई-II ए/आई प्रार (बी-II)]

बृज मोहन, डैस्क अधिकारी

New Delhi, the 11th April, 1996

S.O. 1313.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workmen, which was received by the Central Government on 4-4-96.

[No. L-12012/532/88 D.II.A/IR (B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
MADRAS

Thursday, the 22nd day of February, 1996

Present :

Thiru N. Subramanian, B.A.B.L., Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 29 OF 1989

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Dispute Act, 1947 between the workmen and the management of Indian Bank, Madras-1)

BETWEEN

The Workmen represented by
The General Secretary,
Indian Bank Employees' Union,
No. 25 II Line Beach,
Madras-600 001.

AND

The General Manager,
Indian Bank,
31, Rajaji Road, Madras 600 001.

REFERENCE :

Order No. J-12012/532/88-D.II(A), dated 10-3-89, Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Wednesday, the 3rd day of January, 1996, upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru S. Vaidyanathan for Thiruvalluvar Row & Reddy, advocates appearing for the workmen and of Thiru G. Venkataraman for Thiruvalluvar Aiyar and Dolia and R. Arumugam, advocates appearing for the management, and this dispute having stood over till this day for consideration this Tribunal made the following

AWARD

Government of India, by its letter No. 12012/532/88-D.II(A) dated 10-3-89, referred for adjudication before this Tribunal u/s. 10(1)(d) of the I. D. Act, regarding the dispute :

"Whether the action of the Management of Indian Bank in dismissing 1. Sri Samraj, 2. K. Sivamania Jeeva, wife, 3. S. Jamuna, daughter, 4. S. Sivaraman, son, 5. S. Raghuraman, son; 6. S. Sudhakar, son (Impleaded as legal heirs of the deceased worker Samraj as per order of this Tribunal in Misc. Appin No. 248/94 dated 16-3-95, from the service of the Bank is justified? If not, to what relief is the workman entitled?"

2. After services of notices both the petitioner and the respondent filed their claim and counter statement.

3. The case of the petitioner as per the Claim statement is as follows :

The petitioner was working as a Clerk in the Prukancherry branch of Indian Bank. On 16-8-84, the Dis-

ciplinary Authority issued a charge sheet and initiated enquiry proceedings. The charges levelled against the petitioner are : (i) On 27-2-84, 7-3-84, 9-3-84 and 12-3-84, when the amounts of Rs. 1,640/-, Rs. 820/-, Rs. 410/- and Rs. 2,240/- respectively in cash were handed over to him by Mr. Devan, employee of the Account holder Mr. B. Kumar, to remit into the Bank for credit of S.B. A/c. No. 8992 of Mr. B. Kumar, he has not remitted the amounts on those dates into the Bank." (ii) He has made fictitious credit entries in the S.B. Pass book A/c. No. 8992 of Mr. B. Kumar for the amounts received on the dates mentioned in para 1 and also for a sum of Rs. 610/- on 13-3-84. (iii) He has altered the balances in the ledger sheet of S.B. A/c. No. 8992 of Mr. Kumar to indicate 10,000.78, Rs. 8,710.78 and Rs. 9,520.78 on 12-3-84, 13-3-84 and 14-3-84 respectively and made the balances in this account sufficient enough to debit the cheque no. 237198 of Rs. 9,000/- on 14-3-84." (iv) He has signed the four counterfoils as if it has been signed by the concerned receiving shroff and the Officer after affixing with Bank's cash received date stamp for the remittances handed over to him by Mr. Devan for credit in the S.B. A/c. No. 8992 of Mr. B. Kumar on the dates mentioned in para 1 above. (v) He has remitted only a sum of Rs. 5,100/- on 15-3-84 in the S.B. A/c. No. 8992 of Mr. B. Kumar, by a cash remittance challan signed by him in lieu of the amounts received by him and not remitted as mentioned in para 1." The misconduct construed in the charge sheet is said to have occurred on 14-3-84 when one Heyappan, Officer while checking S.B. Ledger No. 23, noticed some alterations in S.B. ledger sheet of account No. 8992. When he reported the matter to the Manager, the Manager said to have called the petitioner and enquired, it is stated by the authorities that Samraj admitted that he has committed fraud by not remitting the amount given by account holder's employees on different dates. On the basis of the admission, charge sheets were issued and proceedings were initiated. On the finding of the enquiry officer, the disciplinary authority dismissed him from service and the appeal preferred by the petitioner was also dismissed. The prime charge against the employee was that he did not remit into the bank the amounts handed over to him by one Mr. Devan, employee of Mr. B. Kumar, S.B. Account Holder No. 8992 on different dates. This charge is not at all proved. Even with regard to other 4 charges concerned clerks were not produced before the Enquiry Officer. The account holder Kumar and his employee who were crucial witnesses were not examined.

There is discrepancy in the evidence of the Management witness. The Enquiry Officer did not even ask the charge sheeted employee whether he had anything to say to prove his innocence. The Enquiry Officer has relied merely upon the Management's statement that the charge sheeted employee admitted his guilt orally. The petitioner was only a Clerk. It was not his duty to accept remittance into the Bank. The dismissal of the petitioner from service is illegal. There is no documentary evidence for the alleged admission of the petitioner. Neither the Disciplinary Authority nor the Appellate Authority have considered the past unblemished record of service of the petitioner. In any event, the punishment imposed is more severe and not justifiable. Hence this dispute has been raised.

4. The respondent filed his counter contending that the domestic enquiry was conducted as per the Provisions of the Binartite Settlement. The petitioner was offered all reasonable opportunities to defend his case. On the findings of the Enquiry Officer, the Disciplinary Authority issued second show cause notice and after hearing the petitioner, reasonably, he was dismissed from service on 11-12-86. The appeal preferred by the employee was also dismissed. There was no mitigating fact in his past record of service to be taken into account while awarding the punishment. The records would prove that he admitted his guilt. Full fledged enquiry was conducted and in the enquiry he was found guilty. The charges levelled against the petitioner are based on facts. The Management has examined the Officer as

witness and produced documents before the Enquiry Officer. The admission of the guilt by the petitioner in the presence of respondent's Officers of the bank coupled with the remittance of money by the charge sheeted employee would evidence the misappropriation charge. Non examination of the customer and his employee does not absolve the charge sheeted employee from the misconduct committed by him. The Officer who submitted Ex. M-12 was examined by the Enquiry Officer. The Petitioner-union during the Conciliation proceedings before the Conciliation Officer pleaded for leniency in the quantum of punishment. Hence the claim of the petitioner may be dismissed with cost.

5. By consent Exs. M-1 to M-13 and W-1 to W-7 were marked.

6. During the pendency of the proceedings, the petitioner died. His legal heirs are unpleaded as petitioners as per order of this Tribunal dated 16-3-95 in Appl. No. 248/95. Thereafter the legal representatives filed their additional claim statement and the respondent filed additional counter statement.

7. The point for consideration is : Whether the action of the Management of Indian Bank in dismissing Thiru Samraj from the service of the Bank is justified? If not, to what relief is the workman entitled?

8. The Point : The deceased petitioner was working as Clerk in Erukanchery branch of the respondent-bank. According to the Management, while he was working as a Clerk on 27-2-84, 7-3-84, 9-3-84 and 12-3-85, when an employee of one Mr. B. Kumar, S.B. A/c No. 8992 handed over to the petitioner Rs. 1,640, Rs. 820, Rs. 410 and Rs. 2,240 respectively to remit the amount in the Savings Bank account of Kumar, the petitioner without remitting the amount and misappropriating the said amount and made fictitious credit entries in the S.B. Account pass book of Mr. Kumar and altered the ledger sheet correspondingly and forged the signature of the amount receiving clerk in the counter foil of the challan for the remittance. The above misconduct was discovered on 14-3-84 when Mr. Kumar, S.B. Account holder presented a cheque for Rs. 9,000 and the ledger was verified by one Meyappan, Officer who noticed the alterations in the ledger. Immediately, the Manager called the petitioner and questioned. According to the Manager, the petitioner admitted his guilt and pleaded not to take any action. A report was sent to the Zonal Office and the matter was investigated by two officers. Thereafter the chargesheet was issued to the petitioner and domestic enquiry was conducted and he was dismissed from service. Ex. M-1 is the charge sheet. The Petitioner took part in the domestic enquiry, Ex. M-8 is the Enquiry proceedings and Ex. M-9 is the findings of the Enquiry Officer. Ex. M-7 is the Investigation report submitted by the Investigation Officers to the Regional Manager. In the domestic enquiry 4 witnesses were examined. It is contended by the petitioner's counsel, there is no evidence to prove the alterations made by the petitioner in the ledger and he forged the signature of the receiving clerk in the counter foil of the remittance challan. Admittedly, there is no confession statement given by the petitioner. According to the Management, he orally admitted before them. It is the evidence of Management witness No. 1, Manager and MW-2 Mr. Ganeshkumar, that the petitioner admitted the misconduct to them. The four counter foils are marked as Ex. M-4. The pass book of the Account holder and the counter foils of the challan were recovered from the Account holder. Ex. M-5 is the copy of the pass book. Ex. M-5 shows that on the relevant dates there are credit entries as alleged in the charge sheet. But in the corresponding ledger sheet relating to the S.B. Account of Mr. B. Kumar there is no corresponding entry of remittance on the relevant dates. There is some alterations and corrections in the ledger on the dates of March 13th and 14th. It is also admitted the petitioner remitted a sum of Rs. 5,100 on 15-3-84 to the account of B. Kumar which is marked as M-9 in the enquiry. It is also admitted by the Petitioner. Ex. M-7 is the Investigation report by the Deputy Chief Officer of the Regional Office. He has stated in his report the petitioner orally admitted before the Manager about the misconduct and requested him not to take any complaint to higher authorities. He also admitted that he remitted a sum of Rs. 5,100 on 15-3-84 to the account of Mr. B.

Kumar. But refused to give a statement in writing. According to the investigation officers, they recorded the statement of the petitioner in the presence of one Thiagarajan, and the office bearer of Indian Bank Employees' Union and one Selvaraj. It is contended by the petitioner's counsel none of the persons who alleged to have been present when statement of the petitioner was recorded was examined. But one of the Investigation Officer by name Ramamurthy was examined during the enquiry. That witness was not cross-examined by the petitioner. It is not the contention of the petitioner that the enquiry was not conducted in a fair and proper manner and he was denied any opportunity. So, the main question is whether there is sufficient evidence to prove the charges against the petitioner. Even though there is no written confession statement, the oral statement of the petitioner was spoken by MWs 1 and 2. The petitioner did not produce any documentary evidence or oral evidence before the enquiry denying the charges. The only contention of the petitioner is that in order to save somebody he was falsely implicated for this misconduct. There is no necessity for the Bank officials to implicate this petitioner in a grave misconduct without any motive. It is not denied by the petitioner, that the signature found in the 4 counter foils, remittance challans are not his signature. So the counter foils were issued by the petitioner. It is also not denied that the employee of the Account holder Mr. B. Kumar handed over the amount to him for remittance. So, the charges are proved apart from the oral admission of the petitioner, by other circumstantial documentary evidence. Therefore, the findings of the Enquiry Officer is perfectly valid and based on evidence.

9. Regarding the quantum of punishment, as the petitioner was employed in a banking institution which deals with the public money, misappropriating the public money even for temporarily will amount to serious misconduct. Even though there is no financial loss to the Bank or to the Account holder the misappropriation of the amount temporarily is a serious offence. For the employees who have committed such grave misconduct, lesser punishment cannot be imposed. So, the punishment imposed is perfectly proportionate to the offence committed by the petitioner.

In the result, an award is passed dismissing the Claim of the petitioner. No costs.

Dated, this the 22nd day of February, 1996.

THIRU N. SUBRAMANIAN, Industrial Tribunal

WITNESSES EXAMINED

For Both Sides :
None.

DOCUMENTS MARKED

For Workmen :

- Ex. W-1—29-8-85—Written submission of the Petitioner-union in the domestic enquiry (Xerox copy)
- Ex. W-2 —Defence reply to the show cause notice dated 11-12-85 (Xerox copy)
- Ex. W-3—4-2-87—Dispute raised by the Petitioner-union before the Regional Labour Commissioner (Central), Madras (Xerox copy)
- Ex. W-4—24-2-87—Reply filed by the Respondent bank before the Assistant Labour Commissioner (Central), Madras (Xerox copy)
- Ex. W-5—27-10-87—Letter from the Petitioner-union to the Assistant Labour Commissioner (Central), Madras (Xerox copy)
- Ex. W-6—7-10-88—Conciliation Failure Report (Xerox copy)
- Ex. W-7—11-12-87—Letter from the Respondent-Bank to the Assistant Commissioner of Labour (Central), Madras (Xerox copy)

For Management :

- Ex. M-1/16-8-84—Charge sheet issued to Thiru S. Samraj (Xerox copy)

- Ex. M-2/14-3-84—Report sent by the Branch Manager of the Respondent-Bank (Xerox copy)
- Ex. M-3/15-3-85—Letter from the Manager to the Regional Manager of the Respondent-Bank (Xerox copy)
- Ex. M-4 —S. B. Challan and ledger sheet of Thiru B. Kumar (Xerox copy)
- Ex. M-5/12-10-84—Savings Account sheet of B. Kumar (Xerox copy)
- Ex. M-6/21-3-84—Suspension Order issued to Thiru S. Samraj (Xerox copy)
- Ex. M-7/1-7-85—Investigation report of Investigation Officer (Xerox copy)
- Ex. M-8/ —Proceedings of the Enquiry Officer (Xerox copy)
- Ex. M-9/2-9-85—Findings of the Enquiry Officer (Xerox copy)
- Ex. M-10/11-12-85—Second show cause notice issued to Thiru S. Samraj (Xerox copy)
- Ex. M-11/11-2-86—Dismissal Order issued to Thiru S. Samraj (Xerox copy)
- Ex. M-12/ —Appeal against the order of dismissal (Xerox copy)
- Ex. M-13/30-5-86—Order of Appellate authority (Xerox copy)

नई दिल्ली, 11 अप्रैल, 1996

का. घा. 13/4.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक नो आर्डर के प्रत्यक्ष के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9 अप्रैल, 1996 को प्राप्त हुआ था।

[मं. एन 42012/8/87 डी II (बी)]

राजालाल, डेस्क अधिकारी

New Delhi, the 11th April, 1996

S.O. 1314.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 9-11-1996.

[No. L-42012/8/87/D-II(B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I, HYDERABAD

PRESENT :

Sri A. Hanumanthu, M.A., LL.B.,
Industrial Tribunal-I.

Dated : 10th January, 1996

INDUSTRIAL DISPUTE NO. 35 OF 1988

956 GI/96-7.

BETWEEN

Shri C. H. Suryanarayana,
S/o Sri Neeladri Rao,
H. No. 22-89-3, Kanakamahalakshmi Street,
Visakhapatnam-530 001 .. Petitioner

AND

The Joint Manager (Port Operations),
Food Corporation of India,
RTC Complex Buildings,
Visakhapatnam-530 020, Andhra Pradesh,
.. Respondent.

APPEARANCES :

Sri E.D. Nathan, President of the Council of
A.P. Trade Unions and Vice President
of the City Trade Unions Council,
Hyderabad for the Petitioner.

Sri B.G. Ravinder Reddy, Advocate for the
Respondent.

AWARD

This is a reference made by the Government of India, Ministry of Labour, New Delhi, by its Order No. L-42012/8/87-D. II(B) dt. 24-3-1988 under Section 10(1)(d) and (2A) of Industrial Disputes Act, 1947 (hereinafter called 'Act' for adjudication of the Industrial Dispute mentioned in its schedule which reads as follows :

"Whether the action of the management of Joint Manager (Port Operations) Food Corporation of India, Visakhapatnam in terminating Shri Ch. Suryanarayana from service with effect from 12-12-79 is legal/justified? If not, to what relief the workman concerned is entitled to?"

The said reference has been registered as I.D. No. 35/88 on the file of this Tribunal. After receiving the notice issued by this Tribunal, both parties put in their appearance and they are being represented by their counsel.

2. On behalf of the petitioner-workman, a claim statement has been filed to the following effect :—

The petitioner Sri Ch. Suryanarayana was employed as Gunny/Gare Clerk on daily wage rate of Rs. 27.84 Ps. on and from 29-8-1976 under the respondent in connection with import and export business of the Food Corporation of India, Visakhapatnam. The respondent has not issued any appointment order. However the factum of employment of petitioner is borne out from the attendance register and also from the Wages Register maintained by the Respondent. The Respondent terminated the service of the petitioner with effect from 12-12-1979, without assigning any reason and without any notice and also in violation of the mandatory provisions of the Industrial Disputes Act. The petitioner along with other retrenched workers filed a suit in O.S. No. 2053/79 on

the file of IV Addl. Munsif Magistrate, Visakhapatnam and that suit was dismissed on 31-1-1985 on the grounds that that court has no jurisdiction. Subsequently the petitioner moved conciliation machinery of the Central Government and the conciliation efforts ended in failure and thereby this reference has been made by the Government of India. The termination of the service of the petitioner is "retrenchment" within the meaning Section 2(oo) of the Act since the said termination does not fall within any of the excepted categories. The petitioner also had put in 240 days of continuous service during the period of 12 calendar months to be counted backward from the date of retrenchment, namely 12-12-1979. Further the retrenchment of the petitioner is violative of the mandatory provisions contained in Section 25-F and Section 25-G of the Act and Rules 76 and 77 of the Industrial Disputes (Central) Rules. After retrenchment of the petitioner the respondent had employed several workmen in the category of petitioner and thus violated the provisions under Section 25-H r/w Rule 78. No offer has been made to the petitioner for re-employment. The termination of the petitioner from service is ab-initio void. Hence the petitioner is entitled for reinstatement into service with continuity of service, full back wages and other attendant benefits. Hence the Tri-counters has been filed to the following effect :—

3. On behalf of the Respondent-Management, counter has been filed to the following effect :—

The petitioner was engaged as a casual Gunny Gate Clerk on daily wages depending upon the exigencies of work. The petitioner never continuously worked under the respondent. The petitioner was engaged on casual basis for 107 days in the year 1976, 113 days in the year 1977, 219 days in the year 1978 and 199 days in the year 1979. The petitioner never worked for 240 days continuously. The question of issuing one month notice or payment of retrenchment compensation as contemplated under Section 25F of the Act does not arise. The respondent could not engage the petitioner as casual labour due to non-availability of work. The non-engagement of the service of the petitioner does not amount to 'retrenchment' within the meaning of Section 2(oo) of the Act. The allegation that the petitioner had put in 240 days of service during the period of 12 months to be counted backward from the date of retrenchment i.e. 12-12-1979 is not correct. The petitioner had worked only for 199 days during the period of 12 months to be counted backward from the date of retrenchment namely 12-12-1979. The respondent has not violated the provisions of the Sections 25-F, 25-G and 25-H of the Act R/W Rules 76 & 77 as alleged by the petitioner. The allegation that after retrenchment of the petitioner, the respondent has employed several workmen in the category of the petitioner is not true and correct.

No person was engaged as alleged by the petitioner. There is no termination of the service of the petitioner. The petitioner is not entitled to reinstatement into service with continuity of service, full back wages and other attendant benefits as claimed by the petitioner. Hence the petitioner is not entitled to any relief in this reference.

4. During the course of enquiry, no oral or documentary evidence is adduced on behalf of the petitioner-workman. But on behalf of the Respondent-Management, M.W1 was examined but no documents were marked. On a consideration of the material on record, my learned predecessor passed an Award on 23-1-1992 directing the respondent to reinstate the petitioner into service forthwith with back wages from the date of conciliation proceedings were initiated till the date of reinstatement and the respondent was further directed to pay the back wages within one month from the date of publication of the award, failing which the petitioner was entitled to realise the same with interest at 12 per cent per annum from the date of publication of the award till the date of realisation and that there will be no order as to costs. Aggrieved by that Award, the Respondent-Management filed W.P. No. 5639/92 on the file of High Court of A.P. and the Hon'ble High Court by its common judgement with other connected W.Ps set aside the award on certain conditions and the matter has been remitted back to this Tribunal for fresh disposal in accordance with law after giving an opportunity to the workman to lead evidence or affidavit evidence in support of his claim in accordance with Rule 10(6) and thereafter the management be given an opportunity to produce its records and to mark them as evidence. Thus I.D. No. 35/88 has been remitted back for fresh disposal as per the directions of the Hon'ble High Court of A.P. in W.P. No. 5639/92.

5. After remand on behalf of the petitioner W.W1 was examined Exs. W1 & W2 are marked. On behalf of the Respondent M.W2 was examined and Exs. M1 to M16 and Exs. M2A, B, C & D, M3A & B, M4A, M5 A, B, C, D & . . M6A & B, M7A & B, M8A & B, M9A, 10A and B, M11A, M12A, B & C, M13A, M14A, M15A & M16A are marked. The details of the documents Exs. W1 & W2 & Exs. M1 to M16 on behalf of the Petitioner and the Respondent respectively are appended to this Award.

6. The points that arise for consideration are as follows :—

- (i) Whether the action of the Management of Food Corporation of India (Port Operation), Visakhapatnam in terminating Sri Ch. Suryanarayana from service with effect from 12-12-1979 is justified?

- (ii) To what relief the petitioner Sri Ch. Suryanarayana is entitled to in this reference?

7. POINT-1.—The admitted facts as revealed from the evidence on record are as follows :

The Respondent-Food Corporation of India (Port Operations) Visakhapatnam is a Government of India Undertaking. The Regional Office of the respondent-Corporation is at Madras and its Head Office is at Delhi. The petitioner Sri Ch. Suryanarayana was engaged by the respondent on and from 29-8-1976 as Gear Clerk in connection with import and export business of the respondent at Visakhapatnam on daily wages. He worked intermittently in that post till he was discharged on 12-12-1979 without assigning any reasons. He was not given any written appointment order on his engagement into service and he was also not served with any written order of termination/discharge from service. It is also admitted that he was not given any retrenchment notice or one month's pay in lieu of notice and he was also not paid retrenchment compensation when he was discharged from service on 12-12-1979. The petitioner-workman was attending to counting of bags that were loaded and unloaded in the godowns of the respondent or vessels in the Port at Visakhapatnam. It is also admitted that the petitioner was being paid wages, depending upon the No. of days he worked, twice in a month and the workman also signed in the Wage Register when he received the wages. His engagement was also marked in the Attendance Register by the officer of the Respondent-Corporation. It is also admitted that along with the petitioner some others who were also daily rated workmen, were also discharged from service. The petitioner and other discharged workers filed a suit O.S. No. 2053/79 on the file of IV Addl. Munsif Magistrate, Visakhapatnam and that suit was dismissed on 31-1-1985 for want of jurisdiction. Thereafter the petitioner moved conciliation machinery of the Central Government and it resulted in this reference.

8. The learned counsel for the petitioner-workman submits that the petitioner worked continuously from 29-8-1976, that the petitioner had put in 240 days continuously within a span of one year counted backward from the date of discharge i.e. 12-12-1979, that the petitioner has been retrenched from service without giving any notice or pay in lieu of notice or retrenchment compensation as required under Section 25F of the Act, that the respondent also violated the mandatory provisions contained in Section 25F, 25G and 25H of the Act and Rules 76 & 77 of Industrial Disputes (Central) Rules and therefore the retrenchment of the petitioner is illegal and the petitioner is entitled for reinstatement with back-wages and continuity of service. The learned

council for the respondent, on the other hand, submits that this workman was not a regular employee of the respondent, that his services were utilised as casual daily rated workman as the exigencies of work demanded, that there are regular employees of the respondent to attend to the regular work and as and when there was heavy work, the services of this workman were taken temporarily on daily wages and as such he is not a permanent or temporarily employee of the respondent-Corporation, that the petitioner was disengaged as there was no work to be entrusted to him and as such the disengagement of the petitioner does not amount to 'retrenchment' and there is no violation of the provisions under Section 25F, 25G and 25H of the Act and the Rules 76 & 77 of Industrial Disputes (Central) Rules.

9. It is not disputed that the petitioner herein is a workman as defined under Section 2(s) of the Act. It is also not disputed that he was engaged as daily rated workman by the respondent as and when the work was available. It is also admitted that he was not engaged with effect from 12-12-1979. It is well settled that 'retrenchment' is termination of service and "termination of service" may not be 'retrenchment'. In order to be 'retrenchment', "termination of service" has to fall within the ambit of definition of 'retrenchment' in Section 2(00) of the Act. Further the Section 25F of the Act prescribes the requirement of notice and compensation as conditions precedent to the retrenchment of a workman. The termination of service of a workman as a measure of retrenchment without complying with the requirements under Section 25F of the Act will be illegal. It is also well settled that the burden of proof for establishing that the termination of service of a Workman is 'retrenchment' is on the person who have put forward that claim. In other words, whether an employee claimed that he has been retrenched, he must have to prove that he has been 'retrenched' from service and it is not for the employer to prove that the discharge or termination of the employee was otherwise than by way of "retrenchment". It is also well settled that the discharge simpliciter does not amount to retrenchment. If the termination actuated by motive of vindictiveness or unfair labour practice, it amount to 'retrenchment'. Hence, it has to be seen in this case whether the discharge/disengagement of the petitioner with effect from 12-12-1979 amounts to "retrenchment" as defined under Section 2(00) of the Act.

10. The petitioner examined as W.W1. deposed that he was employed on 29-8-1976 on daily wage of Rs. 15/-, that at the time of his termination, he was paid Rs. 27.80 Ps. per day, that on 12-12-1979 his services were terminated and on the same day the respondent employed

about 30 workers brought from Madras Port Operations, that the respondent while terminating his services, did not give any reasons, that he was not given one month's notice or pay in lieu thereof that he was also not given any retrenchment compensation, that the respondent did not issue or serve any notice of retrenchment to the Secretary, Ministry of Labour, Govt. of India, New Delhi or to the Regional Labour Commissioner, Government of India, New Delhi, that the respondent employed some persons in the category of clerks during his termination of service, that the respondent did not publish any seniority list in the category of Clerks, that out of the clerks only 9 clerks were retrenched and the other clerks are continuing and that the workers who were brought from Madras Port Operations and employed in their places, are still continuing in the service. The Respondent has not disputed the engagement of the petitioner from 29-8-76 intermittently as and when there was work and that the petitioner was disengaged on 12-12-1979. In his cross examination, W. W1 stated that he was not recruited either through the employment Exchange or through a paper notification that there is a procedure for appointing employees on permanent basis in the respondent-Corporation which is a Government of India Corporation and that he was not subjected to any kind of test and he was not appointed through any particular process of recruitment. The petitioner admitted in his cross-examination that he was being paid the wages only for the days he worked and he was not paid wages whenever there was no work and that No. of days of work done by him are shown in the counter filed by the respondent. The Assistant Manager of the Respondent Corporation at Vishakhapatnam, examined as M. W1, deposed that the workman herein was a Casual employee on daily wage basis, that the workman was being engaged whenever there was work and that in 1976 the workman worked 107 days that in 1977, the workman worked for a total period of 113 days, that in 1978 the workman worked for a total period of 219 days, that in 1979 the workman worked for 199 days, that from 1980 onwards as there was no work the respondent never engaged anybody as a gunny clerk and that in no year the workman worked for 240 days. In his cross examination M. W1 stated that on the basis of attendance registers, he deposed about the attendance of this workman. M. M2 an Assistant Grade II working in the respondent-Corporation, deposed that from 1976 to 1979, he worked as Grade III Assistant, in the respondent-Corporation, that he worked in Gunny-cum-gear section in the respondent Dock Office, that he knows the workman, who worked as Gear Clerk from 29-8-1976 on casual basis, that the petitioner worked for 117 days during the year 1976, 113 days in the year 1977, 219 days during the year 1978 and 199 days in the year 1979, that the

petitioner worked for 199 days during the preceding 12 months i.e. from 13-12-78 to 12-12-79 that Ex. M1 is the statement showing the No. of days worked by the petitioner and that Ex. M1 was prepared basing on the attendance and wage sheet and in Ex. M1 Statement, that no fresh deposed that the petitioner was engaged as casual gear clerk depending upon the exigencies of work, that there was no continuous work for the gear clerk, that the petitioner did not work on any other date except what is shown in the wage sheet and in Ex. M1 Statement, that no fresh persons were engaged on casual basis after the disengagement of the petitioner from 12-12-1979 and that petitioner was disengaged from 12-12-1979 for want of work. He also spoke to the entries in the wage sheets and the signatures of the petitioner on these wage sheets. Ex. M2 is a wage sheet for the month of January, 1978 and Exs. M2A, M2B, M2C & M2D are the signatures of the petitioner in Ex M2, Ex. M3 is the wage sheet for the month of February, 1978 and Exs. M3A & B are the signatures of the petitioner in Ex. M3, Ex. M4 is the wage sheet for the month of March, 1978 and Ex. M4A is the signature of the petitioner in Ex. M4, Ex. M5 is the wage sheet for the month of April, 1978 and Exs. M5A, B, C, D & E are the signatures of the petitioner in Ex. M5, Ex. M6 is the wage sheet for the month of May, 1978 and Ex. M6A & B are the signatures of the petitioner in Ex. M6, Ex. M7 is the wage sheet for the month of June, 1978 and Exs. M7A & B are the signatures of the petitioner in Ex. M7, M8 is the wage sheet for the month of July, 1978 and Ex. M8A & B are the signatures of the petitioner in Ex. M8, Ex. M9 is the wage sheet for the month of January, 1979 and Ex. M9A is the signatures of the petitioner in Ex. M9, Ex. M10 is the wage sheet for the month of February, 1979 and Ex. M10A & B are the signatures of the petitioner in Ex. M10, Ex. M11 is the wage sheet for the month of July, 1979 and Ex. M11 is the signature of the petitioner in Ex. M11, Ex. M12 is the wage sheet for the month of October, 1979 and Exs. M12A, B, & C are the signatures of the petitioner in Ex. M12, Exs. M13 & 14 are the wage sheets for the month of September, 1979 and Exs. M13A, & Ex. M14A are the signatures of the petitioner in Exs. M13 & M14 respectively and that Exs. M15 & 16 are the wage sheets for the month of December, 1979 and Exs. M15A & M16A are the signatures of the petitioner in Exs. M15 & M16 respectively. M. W2 has identified the signatures of the petitioner in these wage sheets. M. W2 also stated that he prepared Ex. M1 basing on the attendance and wage sheets maintained in the Respondent-Corporation and that all the casual gunny clerks were disengaged due to non-availability of work.

11. It is clear from the above evidence of W.W1, M. W1 and M. W2 that the engagement of the

petitioner was oral and his termination was also oral, and he was engaged on daily wage and his wages were being paid depending upon the No. of days he worked. He worked intermittently as casual daily rated workman when there was work and he was disengaged when there was no work for being entrusted to him. The employment of this workman depended upon the availability of work in the Respondent-Corporation. The petitioner, as W. W1, has categorically admitted in his cross-examination that he was being paid the wages for the days he worked and that he was not paid the wages whenever there was no work. Considering the circumstances that no written appointment order was given to the workman, that he was engaged intermittently, that he was not engaged continuously that he was engaged on daily wages and his wages were paid depending upon the work and No. of days he worked and that no written termination order was issued, it cannot be said that the workman in this reference was a regular employee of the respondent. On the other hand these circumstances go to show that he was only a casual labourer engaged to meet the exigencies of work on any day. His engagement depended upon the availability of work on any particular day. M.Ws. 1 and 2 have categorically stated on oath that this workman was disengaged as there was no work to be entrusted to him. He was not employed on regular basis against a permanent vacancy. It is clear from the evidence on record that the petitioner was engaged as and when there was work to be attended in the respondent-Corporation and he was disengaged when there was no work. Therefore, the discharge of the petitioner is a discharge simpliciter. It cannot be said that it has been motivated by vindictiveness or due to unfair labour practice on the part of the respondent. The petitioner was disengaged for want of work. Therefore, the termination/discharge of the petitioner does not amount to 'retrenchment' as defined under Section 2(oo) of the Act.

12. The learned counsel for the petitioner-workman submits that the definition of 'retrenchment' under Section 2(oo) of the Act is comprehensive one intended to cover any action of the management to put an end of employment of an employee for any reason whatsoever and that the termination of daily rated workman also amounts to 'retrenchment'. He also relied on the decision in 'L. ROBERT D' SOUZA Vs. EXECUTIVE ENGINEER SOUTHERN RAILWAY & ANOTHER (1982-I LLJ Page 330), wherein it is held that the 'termination' of daily rated workman without complying with the mandatory provisions under Section 25F amounts to 'retrenchment'. But this decision is not applicable to the facts of this case. In that case a Railway gangman worked continuously as daily rated workman for more than 26 years and he was transferred to various places

during the period of 26 years and when he abstained from duty unauthorisedly, the management held that his services were deemed to have been terminated, under those circumstances, their Lordships of Supreme Court held that the termination of daily rated servant who worked for more than 26 years amounts to "termination" and his services cannot be terminated at the whims and fancies of the employer". In the instant case the petitioner was engaged intermittently, as and when there was work on daily wages basis and he did not work continuously as seen from Ex. M1, statement showing the days the petitioner worked as a daily rated workman in the respondent-Corporation. Therefore, that decision is not applicable to the facts in this case. The non-engagement of the petitioner with effect from 12-12-1979 does not amount to 'retrenchment' as defined in Section 2(oo) of the Act. The observations of their Lordships of Supreme Court in SATYANARAYANA SHARMA & OTHERS vs. NATIONAL MINERAL DEVELOPMENT CORPORATION LTD. & Others (1990-II LLJ 596) are relevant in this context. In that case daily rated workmen wanted regularisation of their services in the National Mineral Development Corporation. Their Lordships of Supreme Court held in para 4 thus "We do not find any ground to interfere with the High Court's decision in view of the clear findings supported by evidence, that there are no vacancies or work available in the establishment for absorption of the petitioners and that for quite some time they have been continued on rolls and paid inspite of there being no work for them. On these facts, the question of directing their absorption and regularisation does not arise. The principle of regularisation of a daily-rated workman and payment to him of the pay equal to that of a regular workman arises only when the daily-rated workman is doing the same work as the regular workman and there being a vacancy available for him, he is not absorbed against it or not even paid the equal pay for the period during which the same work is taken from him." In the instant case also it is in the evidence of M. Ws. 1 & 2 that there is no clear vacancy or regular work for engaging this petitioner who is daily rated workman. Therefore, in the absence of work and clear vacancy, this daily rated workman cannot be engaged or continued in service as regular employee.

13. Even if it is taken, for argument sake, that the termination of the workman in this case amounts to 'retrenchment' as defined under Section 2(oo) of the Act, the retrenchment is not invalid for not complying with the provisions of Section 25-F of the Act for the reason that the workman had not worked for 240 days continuously within 12 months preceding the date of termination/discharge i.e. 12-12-1979. Section 25F of the Act contains conditions precedent for

retrenchment of a workman. It provides that no workman employed in any industry who has been in continuous service for not less than one year under the employment shall be retrenched by that employer until the workman has been given one month's notice etc. Under Section 25-B of the Act the period of one year of service is taken as 240 days of service in period of 12 months preceding the date of termination. It is in the evidence of M. Ws. 1 & 2 that the workman herein did not work for 240 days and as such the Management need not follow the mandatory procedure prescribed under Section 25-F of the Act. Ex. M1 is the statement showing the Number of days worked herein. This document has been prepared on the basis of the entries made in the attendance register maintained for the daily rated workman for the relevant period. As seen from this document the petitioner worked for 117 day in 1976, 113 days in 1977, 219 days in 1978 and 199 days in 1979. Admittedly the workman was disengaged with effect from 12-12-1979. As seen from this document during the period from 12-12-1978 to 11-12-1979 i.e. the period of 12 months preceding the date of termination, the petitioner-workman did not work for 240 days. Therefore, the respondent need not follow the mandatory provisions of Section 25F of the Act before the termination/retrenchment of the workman herein. The learned counsel for the petitioner submits that the Attendance Register based on which Ex. M1 is said to have been prepared is not marked. It is in the evidence of M Ws. 1 & 2 that the relevant attendance registers have been filed into this Tribunal as per the directions of this Tribunal and they are readily available for scrutiny. There is no cross-examination of M. Ws. 1 & 2 with reference to the entries in the attendance registers, filed into this Tribunal. Further the Respondent-Management has also produced and marked the wages registers Ex. M2 to M16 and the relevant signatures of the petitioner in those wage sheets are also marked. They have been identified by M. W2 who worked in that section during the relevant period from 1976 to 1979. I do not find any reason to reject the entries in Ex. M1.

14. The learned counsel for the workman next contends that the provisions under Section 25F & 25H of the Act are attracted even in cases where the workman worked for less than 240 days and as the management has not complied with the provisions under these two sections, the retrenchment of the petitioner is invalid. He also relied on the decision in **ORIENTAL BANK OF COMMERCE Vs. PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL & ANOTHER** (1994 II LLJ Page 770) wherein it is held that "whether a person has completed that service of statutory period or not, he is however entitled to the benefits mentioned in Sec-

tion 25-G and 25-H of the Act and as such if the retrenchment is to be made even if a person who has worked for less than the statutory period it has to be on the basis of 'first come last go' and when the management re-employs certain persons, the offer of re-employment had to be given to those who have been retrenched if they are willing to work". Section 25G of the Act provides procedure for retrenchment and it lays down that where any workman in an industrial establishment who is a citizen of India, is to be retrenched and he belongs to a particular category of workman in that establishment, in the absence of an agreement between the employer and employee on the behalf, the employer shall ordinarily retrench the workman who was last person to be employed in that category only, but for the reasons to be recorded, the employer can retrench any other workman. Section 25-H makes provision for re-employment of retrenched workman and it provides that where any workman is retrenched and an employer proposes to take into employment in such a manner as may be prescribed give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workman who offer themselves for re-employment shall have preference over other persons. It is significant to note that these two sections shall apply in case of retrenchment only. It has been held by me that the termination/discharge/non-engagement of the workman in this case does not amount to retrenchment. Further even if it is taken for arguments sake that the termination of this workman amounts to retrenchment the provisions of Section 25-G and 25-H are not applicable for the fact in the present case. For application of section 25-G of the Act, there must be evidence on record to show that the juniors of the retrenched employee were allowed to continue in employment and for application of the provisions under Section 25-H of the Act, there must be positive evidence on record to show that subsequent to his retrenchment, the management make certain appointments to the same category and that he was not considered for re-employment. In the decision of **ORIENTAL BANK OF COMMERCE vs PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL & ANOTHER** (1994 II LLJ Page 770) relied upon by the counsel for the workmen, the witnesses for the management themselves have categorically admitted that the juniors to the retrenched employee were allowed to continue in office and that retrenched employee was not given an opportunity or re-employment and that some others appointed to the same post. But in the case at hand, there is no pleading in the claim statement filed on behalf of the workman that his juniors were allowed to continue in service while his services were terminated. It is simply pleaded that the provisions of Section 25G w

followed. In para 9 of the claim statement, it is averred that the respondent had employed several workmen in the category of the petitioner in this reference subsequent to the retrenchment and that the provisions under Section 25H are mandatory; But the details of the juniors who were allowed to continue in service and the details of the employees who are said to have been employed subsequent to the retrenchment of the workman are not mentioned. It is only a bald averment. In his evidence as W. W1 the workman stated thus "Thus management has appointed several clerks during the period of my service with the respondent. After effecting my termination the management has brought some workers from Madras and they were employed as Clerks under the respondent at Visakhapatnam. I do not know the names of the said clerks as engaged by the Management. "In his cross-examination W. W1 stated "I am not aware as to who was taken into employment after my termination. But I came to know that some employees transferred from Madras office of the Respondent were engaged in the respondent. Port operations. Along with the some other persons were also engaged as Gunny/Gear Clerks and their services were also disengaged along with me. I do not know whether any new persons were taken into employment by the respondent." Thus the details of the juniors that were said to have been continued in service and the details of the employees that were said to have been employed subsequent to the retrenchment of the petitioner are not spoken to by the Petitioner as W. W1. It is in the positive evidence of M. W2 that all the casual gunny/gear clerks were disengaged along with the petitioner and that after disengagement of the petitioner no new employees were taken into service. He further stated that except the employees who came under transfer from their Madras Office no other persons were engaged on casual basis. Therefore it cannot be said that the respondent viola the statutory provisions under Section 25-G & 25H of the Act.

15. It is contended on behalf of the workman that some employees from Food Corporation of India, Port Operations, Madras Office were brought to Visakhapatnam and only to accommodate them the workman under this reference and others were terminated. There is no pleading to that effect in the claim statement filed on behalf of the workman. Further it is in the evidence of M. W2 that regular employees working in F.C.I. are transferrable from one place to another and that the some regular employees were transferred from Madras Office of Food Corporation of India to the Respondent at Vishakhapatnam and that except those regular employees who have been transferred from Madras no other person was engaged on casual basis. Thus the regular employees who have been transferred from Madras

Office, have been accommodated in the respondent office at Visakhapatnam. It cannot be said that to accommodate those regular transferred employees the workman and others were retrenched.

16. It is also contended by the learned counsel for the petitioner that seniority list of workers is not maintained and published and therefore it cannot be said that the workman herein is junior-most to be retrenched. As earlier stated the termination of the workman herein does not amount to retrenchment. Further M. W1 deposed that the seniority list is maintained in respect of only permanent employees and that no list is being maintained with regard to the casual employees or daily rated employees. Further under the circumstances of this case, the non-maintenance of publication of seniority list of daily rated employees is not material and relevant as the termination/discharge of the services of the workman in this case is not on account of surplusage but only for want of work.

17. Exs. W1 & W2 are the counter affidavit and reply filed before the Hon'ble High Court of A. P. in the earlier W. P. No. 5639/92. But the said documents do not, in any way, throw any light for the disposal of the issues involved in the reference.

18. In the light of my above discussion, I hold on point No. 1 that the action of the management of Food Corporation of India, Port Operation, Visakhapatnam in terminating the workman Sri Ch. Suryanarayana does not amount to 'retrenchment' and it is justified. The point is thus decided against the petitioner-workman and in favour of the respondent management.

19. POINT NO. 2 : This issue relates to the relief to be granted to the workman in this reference. In view of my finding on Point No. 1, the petitioner-workman is not entitled for any relief in this reference.

20. In the result, Award is passed stating that the termination of the workman Ch. Suryanarayan from service is just and legal and that the workman is not entitled for any relief. Award is thus answered accordingly. The parties are directed to bear their costs.

Dicated to the Steno-typist, transcribed by him. corrected by me and given under my hand and the seal of this Tribunal, this the 10th day of January, 1996.

A. HANUMANTHU, Industrial Tribunal-I
Appendix of Evidence

Witnesses Examined for
Petitioner :

W. W1 Ch. Suryanarayana

Witnesses Examined for
Respondent :

M. W1 L. N. Murthy

M. M2 R. Suryanarayana
Murthy

Documents marked for the Petitioner-Workman :

Ex. W1 Xerox copy of the counter affidavit of Ch. Suranarayana in W.P. No. 5639/92.

Ex. W2 Xerox copy of the reply affidavit on behalf of the Petitioner in W. P. No. 5630/92.

Documents marked for the Respondent-Management :

Ex. M1 : Statement showing the particulars of engagement of gunny/gear clerks month-wise (year-wise).

Ex. M2 : Wage Sheet for the month of January, 1978.

Ex. M2A Signature of the petitioner in Ex. M2.

Ex. M2B —do—

Ex. M2C —do—

Ex. M2D —do—

Ex. M3 Wage Sheet for the month of February, 1978.

Ex. M3A Signature of the petitioner in Ex. M3.

Ex. M3B —do—

Ex. M4 Wage sheet for the month of March, 1978.

Ex. M4A Signature of the petitioner in Ex. M4.

Ex. M5 Wage Sheet for the month of April, 1978.

Ex. M5A

Ex. M5B

Ex. M5C

Signature of the petitioner in Ex. M5.

Ex. M5D

Ex. M5E

Ex. M6 Wage Sheet for the month of May, 1978.

Ex. M6A Signature of the petitioner in Ex. M6.

Ex. M6B —do—

Ex. M7 Wage Sheet for the month of June, 1978.

Ex. M7A Signature of the petitioner in Ex. M7.

Ex. M7B —do—

Ex. M8 Wage Sheet for the month of July, 1978.

Ex. M8A Signature of the petitioner in Ex. M8.

Ex. M8B —do—

Ex. M9 Wage Sheet for month of January, 1979.

Ex. M9A Signature of the petitioner in Ex. M9.

Ex. M10 Wage Sheet for the month of February, 1979.

Ex. M10A Signature of the petitioner in Ex. M10.

Ex. M10B —do—

Ex. M11 Wage Sheet for the month of July, 1979.

Ex. M11A Signature of the petitioner in Ex. M11.

Ex. M12 Wage Sheet for the month of October, 1979.

Ex. M12A Signature of the petitioner in Ex. M12.

Ex. M12B Signature of the petitioner in Ex. M12.

Ex. M12C —do—

Ex. M13 Wage Sheet for the month of September, 1979.

Ex. M13A Signature of the Petitioner in Ex. M13.

Ex. M14 Wage Sheet for the month of September, 1979.

Ex. M14A Signature of the petitioner in Ex. M14.

Ex. M15 Wage Sheet for the month of December, 1979.

Ex. M15A Signature of the petitioner in Ex. M15.

Ex. M16 Wage Sheet for the month of December, 1979.

Ex. M16A Signature of the petitioner in Ex. M16.